

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

CHAPTER 60

ENFORCEMENT OF JUDGMENTS

600.6001 Persons to whom execution issued.

Sec. 6001. Whenever a judgment is rendered in any court, execution to collect the same may be issued to the sheriff, bailiff, or other proper officer of any county, district, court district or municipality of this state.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6002 Execution; indorsement; date; return; death or incapacity of officer serving execution; certificate; jurisdiction as to joint or joint and several obligors.

Sec. 6002. (1) Upon receipt of any execution the sheriff or other officer receiving the execution shall indorse thereon the year, month, day, and hour of receipt and that time shall be the date of the execution.

(2) Executions shall be made returnable not less than 20, nor more than 90, days from that date.

(3) When an officer has begun to serve an execution issued out of any court, on or before the return day of the execution, he may complete service and return after the return date.

(4) When an officer has begun to serve an execution and dies, or becomes incapable of completing service and return, any other officer who might by law have originally served the execution, may complete it. If the first officer fails to make a certificate, the second officer shall do so, including the doings of both officers therein. If the first officer makes a certificate, the second officer shall make a certificate as to his own doings in completing service.

(5) If there are joint or joint and several obligors and jurisdiction was not acquired over all of them, the names of those over whom jurisdiction was not acquired shall be indorsed on the execution.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6003 Execution on transcript of judgment by district, municipal, or common pleas court.

Sec. 6003. Whenever a transcript of a judgment rendered by a district, municipal, or common pleas court is filed and docketed by the clerk of the circuit court for the county, all executions thereon shall issue out of, and under the seal of, the circuit court in the same form, as near as may be, as other executions issued out of the circuit court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6004 Execution against realty; contents.

Sec. 6004. Executions against realty shall command the officer to whom they are directed to make execution against the realty of the judgment debtor only after execution has been made against the personal property of the judgment debtor that is in the county, and such personal property is insufficient to meet the sum of money and costs for which judgment was rendered.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6005 Successive or alias executions; several executions.

Sec. 6005. Successive or alias executions may be issued one after another upon return of any execution unsatisfied in whole or in part, for the amount remaining unpaid thereon. Several executions may be issued at the same time to officers of different counties, district court districts, or municipalities and enforced by them therein.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6006 Execution; new.

Sec. 6006. If an execution is returned satisfied in whole or in part, by the sale of any property which afterwards appears not to belong to the judgment debtor, or not to be liable to execution, the court may on the application of such judgment creditor, order a new execution to be issued on such judgment, for the amount then remaining justly and equitably due thereon.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6007 Execution; precedence.

Sec. 6007. If there are 1 or more executions or attachments issued against the same judgment debtor or his property, the execution or attachment first delivered for execution shall have preference; except that if there has been a levy and sale of any goods or chattels before a levy under the first execution or attachment, then

such goods or chattels shall not be levied on by virtue of such first execution or attachment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6008 Execution; set-off; balance on appeal.

Sec. 6008. (1) Executions between the same parties may be set off one against another, if required by either party as follows:

(a) When 1 of the executions is delivered for service, the person who is the debtor therein may deliver his execution to the serving officer and it shall be applied, as far as it will extend, to the satisfaction of the first execution; and such application shall be indorsed on each execution. Only the balance due on the larger execution may then be collected and paid in the same manner as if there had been no set off.

(b) Such set off shall not be allowed unless all the parties are mutual debtors and creditors. Nor shall set off be allowed where the sum due on the first execution shall have been lawfully assigned to another person before the creditor in the second execution becomes entitled to the sum due thereon, or as to so much of the first execution as may be due to the attorney in that suit for his taxable fees and disbursements.

(2) If, upon an appeal, a recovery for a debt or damages be had by 1 party, and costs be awarded the other, execution shall issue only in favor of the party to whom there shall be a balance due, and for the amount of such balance.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6009 Execution; officer's security; recovery of expense.

Sec. 6009. Whenever there is any reasonable doubt as to the ownership by a judgment debtor of any personal property, or as to their liability to be taken upon an execution, the officer holding such execution may require of the judgment creditor sufficient security to indemnify him for taking such personal property thereon; and if such security be refused, such officer shall not be liable for omitting to take such personal property. Such judgment creditor upon demand of the officer holding such execution, upon depositing sufficient security to indemnify the officer taking such personal property, shall recover of the defendant, together with the costs of the execution levy, the reasonable cost of indemnity so deposited.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 244, Eff. Aug. 28, 1964.

600.6010 Execution; return; misconduct of officer; civil liability.

Sec. 6010. The officer who makes any sale on execution shall, in his return on the execution, specify the articles sold, and the sum for which each article or parcel was sold; and if he is guilty of any fraud in the sale, or in the return, or unreasonably neglects to pay any money collected by him on such execution, when demanded by the creditor therein, he shall be liable in a civil action, brought by the party injured, for 5 times the amount of the actual damages sustained by reason of such fraud or neglect.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6011 Effect of order to stay proceedings on execution.

Sec. 6011. When an execution has been issued, an order to stay proceedings thereon shall not prevent a levy on property by virtue of the execution, but shall only suspend a sale thereon until the decision of the proper court upon the matter.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6012 Execution; property bound from time of levy.

Sec. 6012. Whenever an execution issues against the property of any person, his goods and chattels, lands and tenements, levied upon by such execution, shall be bound from the time of such levy.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6013 Interest on money judgment.

Sec. 6013. (1) Interest is allowed on a money judgment recovered in a civil action, as provided in this section. However, for complaints filed on or after October 1, 1986, interest is not allowed on future damages from the date of filing the complaint to the date of entry of the judgment. As used in this subsection, "future damages" means that term as defined in section 6301.

(2) For complaints filed before June 1, 1980, in an action involving other than a written instrument having a rate of interest exceeding 6% per year, the interest on the judgment is calculated from the date of filing the complaint to June 1, 1980, at the rate of 6% per year and on and after June 1, 1980, to the date of satisfaction of the judgment at the rate of 12% per year compounded annually.

(3) For a complaint filed before June 1, 1980, in an action involving a written instrument having a rate of interest exceeding 6% per year, the interest on the judgment is calculated from the date of filing the complaint

to the date of satisfaction of the judgment at the rate specified in the instrument if the rate was legal at the time the instrument was executed. However, the rate after the date judgment is entered shall not exceed either of the following:

(a) Seven percent per year compounded annually for a period of time between the date judgment is entered and the date of satisfaction of the judgment that elapses before June 1, 1980.

(b) Thirteen percent per year compounded annually for a period of time between the date judgment is entered and the date of satisfaction of the judgment that elapses after May 31, 1980.

(4) For a complaint filed on or after June 1, 1980, but before January 1, 1987, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate of 12% per year compounded annually unless the judgment is rendered on a written instrument having a higher rate of interest. In that case, interest is calculated at the rate specified in the instrument if the rate was legal at the time the instrument was executed. The rate under this subsection shall not exceed 13% per year compounded annually after the date judgment is entered.

(5) Except as provided in subsection (6), for a complaint filed on or after January 1, 1987, but before July 1, 2002, if a judgment is rendered on a written instrument, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate of 12% per year compounded annually, unless the instrument has a higher rate of interest. In that case, interest shall be calculated at the rate specified in the instrument if the rate was legal at the time the instrument was executed. The rate under this subsection shall not exceed 13% per year compounded annually after the date judgment is entered.

(6) For a complaint filed on or after January 1, 1987, but before July 1, 2002, if the civil action has not resulted in a final, nonappealable judgment as of July 1, 2002, and if a judgment is or has been rendered on a written instrument that does not evidence indebtedness with a specified interest rate, interest is calculated as provided in subsection (8).

(7) For a complaint filed on or after July 1, 2002, if a judgment is rendered on a written instrument evidencing indebtedness with a specified interest rate, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate specified in the instrument if the rate was legal at the time the instrument was executed. If the rate in the written instrument is a variable rate, interest shall be fixed at the rate in effect under the instrument at the time the complaint is filed. The rate under this subsection shall not exceed 13% per year compounded annually.

(8) Except as otherwise provided in subsections (5) and (7) and subject to subsection (13), for complaints filed on or after January 1, 1987, interest on a money judgment recovered in a civil action is calculated at 6-month intervals from the date of filing the complaint at a rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, according to this section. Interest under this subsection is calculated on the entire amount of the money judgment, including attorney fees and other costs. In an action for medical malpractice, interest under this subsection on costs or attorney fees awarded under a statute or court rule is not calculated for any period before the entry of the judgment. The amount of interest attributable to that part of the money judgment from which attorney fees are paid is retained by the plaintiff, and not paid to the plaintiff's attorney.

(9) If a bona fide, reasonable written offer of settlement in a civil action based on tort is made by the party against whom the judgment is subsequently rendered and is rejected by the plaintiff, the court shall order that interest is not allowed beyond the date the bona fide, reasonable written offer of settlement is filed with the court.

(10) Except as otherwise provided in subsection (1) and subject to subsections (11) and (12), if a bona fide, reasonable written offer of settlement in a civil action based on tort is not made by the party against whom the judgment is subsequently rendered, or is made and is not filed with the court, the court shall order that interest be calculated from the date of filing the complaint to the date of satisfaction of the judgment.

(11) If a civil action is based on medical malpractice and the defendant in the medical malpractice action failed to allow access to medical records as required under section 2912b(5), the court shall order that interest be calculated from the date notice was given in compliance with section 2912b to the date of satisfaction of the judgment.

(12) If a civil action is based on medical malpractice and the plaintiff in the medical malpractice action failed to allow access to medical records as required under section 2912b(5), the court shall order that interest be calculated from 182 days after the date the complaint was filed to the date of satisfaction of the judgment.

(13) Except as otherwise provided in subsection (1), if a bona fide, reasonable written offer of settlement in a civil action based on tort is made by a plaintiff for whom the judgment is subsequently rendered and that offer is rejected and the offer is filed with the court, the court shall order that interest be calculated from the date of the rejection of the offer to the date of satisfaction of the judgment at a rate of interest equal to 2%

plus the rate of interest calculated under subsection (8).

(14) A bona fide, reasonable written offer of settlement made according to this section that is not accepted within 21 days after the offer is made is rejected. A rejection under this subsection or otherwise does not preclude a later offer by either party.

(15) As used in this section:

(a) "Bona fide, reasonable written offer of settlement" means either of the following:

(i) With respect to an offer of settlement made by a defendant against whom judgment is subsequently rendered, a written offer of settlement that is not less than 90% of the amount actually received by the plaintiff in the action through judgment.

(ii) With respect to an offer of settlement made by a plaintiff, a written offer of settlement that is not more than 110% of the amount actually received by the plaintiff in the action through judgment.

(b) "Defendant" means a defendant, a counter-defendant, or a cross-defendant.

(c) "Party" means a plaintiff or a defendant.

(d) "Plaintiff" means a plaintiff, a counter-plaintiff, or a cross-plaintiff.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 240, Imd. Eff. July 21, 1965;—Am. 1966, Act 276, Imd. Eff. July 12, 1966;—Am. 1972, Act 135, Eff. Mar. 30, 1973;—Am. 1980, Act 134, Eff. June 1, 1980;—Am. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1987, Act 50, Imd. Eff. June 22, 1987;—Am. 1993, Act 78, Eff. Apr. 1, 1994;—Am. 2001, Act 175, Eff. Mar. 22, 2002;—Am. 2002, Act 77, Imd. Eff. Mar. 21, 2002;—Am. 2012, Act 609, Eff. Mar. 28, 2013.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

Enacting section 1 of Act 609 of 2012 provides:

"Enacting section 1. Sections 2912e, 5852, and 6013 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2912e, 600.5852, and 600.6013, as amended by this amendatory act apply only to actions in which the cause of action arose on or after the effective date of this amendatory act."

600.6017 Execution; personality.

Sec. 6017. Except as otherwise provided by law, execution may be made against all personal property of the judgment debtor that is liable to execution at common law, including, but not limited to the following:

(1) All abstract books, maps, plats, charts, and other records owned or kept by any person, partnership or corporation for the purpose of furnishing abstracts or information concerning title to lands in this state.

(2) Bills and other evidences of debt, issued and circulated as money unless the creditor accepts them at par value as money collected and paid, in which case they shall not be sold.

(3) Goods or chattels pledged by way of mortgage or otherwise, for the payment of money, or the performance of any contract or agreement, but only as against the pledgor and subject to the lien, mortgage or pledge existing thereon.

(4) In the case of an execution against a corporation, all corporate property.

(5) In the case of an execution against a partnership association, or a member of a partnership association, in that capacity, the personal property of such association or member, but subject to the provisions of section 2 of Act No. 191 of the Public Acts of 1877.

(6) Current money of the United States except that such money shall be taken as money collected and paid, and not sold unless it has a value of more than face value.

(7) Any share or interest of any stockholder in any corporation, that is or may be incorporated under the authority of any law of this state, unless expressly exempted by law.

(8) In the case of an execution against a corporation authorized by law to receive tolls, the franchise and all its rights and privileges, and all the other property of such corporation not otherwise exempted.

(9) The property of joint, and joint and several judgment debtors.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6018 Execution; realty.

Sec. 6018. All the real estate of any judgment debtor, including, but not limited to, interests acquired by parties to contracts for the sale of land, whether in possession, reversion or remainder, lands conveyed in fraud of creditors, equities and rights of redemption, leasehold interests including mining licenses, for mining ore or minerals, but not including tenancies at will, and all undivided interests whatever, are subject to execution, levy and sale except as otherwise provided by law.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6021 Judgments; nonissuance of execution.

Sec. 6021. No execution may issue upon a judgment against:

- (1) Any township, village, city, or against the trustees or common council, or officers thereof where the action is prosecuted by or against them in their name of office;
- (2) Any corporate body or unincorporated board, having charge or control of any state institution;
- (3) Any school district;
- (4) Any county or the board of supervisors or any county officer in an action prosecuted by or against him in his name of office.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6022 Persons whose property is exempt.

Sec. 6022. Executions shall not issue:

- (1) In the case of a debt due from a deceased person, against the body or property of his or her personal representative, heir, devisee, or legatee, except for property of the deceased in their hands.
- (2) Against the sole property of a joint or joint and several judgment debtor over whom jurisdiction was not acquired.
- (3) Against the homestead of a judgment debtor under the prisoner reimbursement to the county act, Act No. 118 of the Public Acts of 1984, being sections 801.81 to 801.93 of the Michigan Compiled Laws.
- (4) Against the homestead up to a value of \$50,000.00 of a judgment debtor under the state correctional facility reimbursement act, Act No. 253 of the Public Acts of 1935, being sections 800.401 to 800.406 of the Michigan Compiled Laws.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 121, Imd. Eff. June 1, 1984;—Am. 1984, Act 405, Imd. Eff. Dec. 28, 1984.

600.6023 Property exempt from levy and sale under execution; lien excluded from exemption; homestead exemption; rents and profits.

Sec. 6023. (1) The following property of a judgment debtor and the judgment debtor's dependents is exempt from levy and sale under an execution:

- (a) All family pictures, all arms and accouterments required by law to be kept by any person, all wearing apparel of every person and his or her family, and provisions and fuel for comfortable subsistence of each householder and his or her family for 6 months.
- (b) All household goods, furniture, utensils, books, and appliances, not exceeding in value \$1,000.00.
- (c) A seat, pew, or slip occupied by the judgment debtor or the judgment debtor's family in a house or place of public worship, and all cemeteries, tombs, and rights of burial while in use as repositories of the dead of the judgment debtor's family or kept for burial of the judgment debtor.
- (d) To each householder, 10 sheep, 2 cows, 5 swine, 100 hens, 5 roosters, and a sufficient quantity of hay and grain, growing or otherwise, for properly keeping the animals and poultry for 6 months.
- (e) The tools, implements, materials, stock, apparatus, team, vehicle, motor vehicle, horses, harness, or other things to enable a person to carry on the profession, trade, occupation, or business in which the person is principally engaged, not exceeding in value \$1,000.00.
- (f) Any money or other benefits paid, provided, or allowed to be paid, provided, or allowed, by any stock or mutual life or health or casualty insurance company, on account of the disability due to injury or sickness of the insured person, whether the debt or liability of such insured person or beneficiary was incurred before or after the accrual of benefits under the insurance policy or contract, except that the exemption under this subdivision does not apply to actions to recover for necessities contracted for after the accrual of the benefits.
- (g) A homestead of not more than 40 acres of land and the dwelling house and appurtenances on that homestead that is not included in a recorded plat, city, or village, or, at the option of the owner, a quantity of land that consists of not more than 1 lot that is within a recorded town plat, city, or village, and the dwelling house and appurtenances on that land, owned and occupied by any resident of this state, not exceeding in value \$3,500.00. This exemption applies to any house that is owned, occupied, and claimed as a homestead by a person but that is on land not owned by the person. However, this exemption does not apply to a mortgage

on the homestead that is lawfully obtained. A mortgage is not valid for purposes of this subdivision without the signature of a married judgment debtor's spouse unless either of the following occurs:

(i) The mortgage is given to secure the payment of the purchase money or a portion of the purchase money.
(ii) The mortgage is recorded in the office of the register of deeds of the county in which the property is located, for a period of 25 years, and no notice of a claim of invalidity is filed in that office during the 25 years following the recording of the mortgage.

(h) An equity of redemption as described in section 6060.

(i) The homestead of a family, after the death of the owner of the homestead, from the payment of his or her debts in all cases during the minority of his or her children.

(j) An individual retirement account or individual retirement annuity as defined in section 408 or 408a of the internal revenue code of 1986, 26 USC 408 and 408a, and the payments or distributions from the account or annuity. This exemption applies to the operation of the federal bankruptcy code as permitted by section 522(b)(2) of the bankruptcy code, 11 USC 522. This exemption does not apply to any amounts contributed to the individual retirement account or individual retirement annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to an individual retirement account or individual retirement annuity to the extent that any of the following occur:

(i) The individual retirement account or individual retirement annuity is subject to an order of a court pursuant to a judgment of divorce or separate maintenance.

(ii) The individual retirement account or individual retirement annuity is subject to an order of a court concerning child support.

(iii) Contributions to the individual retirement account or premiums on the individual retirement annuity, including the earnings or benefits from those contributions or premiums, exceed, in the tax year made or paid, the deductible amount allowed under section 408 of the internal revenue code of 1986, 26 USC 408. This limitation on contributions does not apply to a rollover of a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code of 1986, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code of 1986, 26 USC 403.

(k) The right or interest of a person in a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code of 1986, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code of 1986, 26 USC 403, if the plan or annuity is subject to the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829. This exemption applies to the operation of the federal bankruptcy code, as permitted by section 522(b)(2) of the bankruptcy code, 11 USC 522. This exemption does not apply to any amount contributed to a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to the right or interest of a person in a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity to the extent that the right or interest in the plan or annuity is subject to either of the following:

(i) An order of a court pursuant to a judgment of divorce or separate maintenance.

(ii) An order of a court concerning child support.

(l) Any interest in the following:

(i) A trust, fund, or advance tuition payment contract established under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442.

(ii) An account established under the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486.

(iii) An account in a qualified tuition program or educational savings trust under section 529 or 530 of the internal revenue code of 1986, 26 USC 529 and 530.

(2) The exemptions provided in this section do not extend to any lien on the exempt property that is excluded from exemption by law.

(3) If the owner of a homestead dies, leaving a surviving spouse but no children, the homestead is exempt, and the rents and profits of the homestead shall accrue to the benefit of the surviving spouse before his or her remarriage, unless the surviving spouse is the owner of a homestead in his or her own right.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963;—Am. 1964, Act 73, Imd. Eff. May 12, 1964;—Am. 1984, Act 83, Imd. Eff. Apr. 19, 1984;—Am. 1989, Act 5, Imd. Eff. Apr. 19, 1989;—Am. 1998, Act 61, Imd. Eff. Apr. 20, 1998;—Am. 2012, Act 553, Imd. Eff. Jan. 2, 2013.

600.6023a Property held jointly by husband and wife; exemption under judgment entered against 1 spouse.

Sec. 6023a. Property described in section 1 of 1927 PA 212, MCL 557.151, or real property, held jointly by a husband and wife as a tenancy by the entirety is exempt from execution under a judgment entered against

only 1 spouse.

History: Add. 2004, Act 575, Imd. Eff. Jan. 3, 2005.

600.6024 Exemptions from sale on execution; taxation; exception; purchase money mortgage sale; effect of sale of property.

Sec. 6024. (1) Nothing in this chapter shall be considered as exempting real estate from taxation or sale for taxes.

(2) No specific piece of property either real or personal, is exempt from levy or sale under execution issued upon a judgment rendered for the purchase money for the same property, and any sale of such property after the commencement of an action to recover the purchase price thereof, and the filing of notice as herein required, shall be null and void as against such an execution. The plaintiff in any such suit shall file or cause to be filed with the register of deeds of the county in which the owner of such property resides, a notice in which he shall state the time when such action was commenced, the amount claimed, that the suit was brought to recover the purchase money for the property, a description of the property, and the name of the defendant. At the time of filing such notice, the party filing the same shall pay to the register of deeds the fee authorized by law, and said register shall indorse upon such notice the date of filing the same and make the same record as in the case of a chattel mortgage.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6025 Execution; exemptions; inventory; appraisal; expenses.

Sec. 6025. (1) When a levy is made upon property of any class or species, which is exempt by law from execution to a specified number, amount or value, the officer levying such execution shall make inventory of so much of such property belonging to the judgment debtor as is sufficient, in the judgment of such officer, to cover the amount of the exemptions and satisfy the execution, and cause such property to be appraised at its cash value, by 2 disinterested freeholders of the township or city where the property is located, on oath to be administered by him to such appraisers.

(2) Where a homestead is claimed and, in the judgment of the officer or the judgment creditor, exceeds in value \$3,500.00, the officer shall have the homestead appraised by 6 such appraisers.

(3) The appraisers shall make and sign an appraisal of the value of the property and parts thereof if it can be divided and deliver such appraisal to the officer, who shall deliver a copy of the appraisal to the debtor.

(4) Appraisers are entitled to \$2.00 per day each for their services, and 6 cents per mile for traveling, in going only, such amounts to be collected upon execution from the plaintiff in execution.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963.

600.6026 Selection from inventory; selection of homestead; survey; sale of property levied upon; deed.

Sec. 6026. (1) Upon inventory and appraisal, the defendant in execution, or his authorized agent, may select from the inventory the number of items or animals, or the amount of property not exceeding, according to the inventory and appraisal, the number, amount, or value exempted by law from execution. If no selection is made within 10 days following completion of inventory and appraisal, the officer shall make it.

(2) Whenever a levy is made upon, or the clerk of any court advertises for sale under any judgment upon the foreclosure of any mortgage not valid as against the homestead and so stated in the judgment, the lands and tenements of a householder whose homestead has not been platted and set apart by metes and bounds, the householder shall notify the officer at the time of making the levy or at the time of the advertising for sale what he regards as his homestead, with a description thereof, within the limits above prescribed, and the remainder alone is subject to sale under the levy or judgment. If at the time of the levy or advertising for sale the householder fails to notify the officer making the levy or advertising the property for sale, what he regards as his homestead with a description thereof, the officer making the levy or advertising the property for sale, shall call upon the householder to make his selection of a homestead out of the land, describing it minutely. If after the notice the owner of the land fails to select his homestead, the officer may select the homestead out of the land for him and the remainder over and above that part selected by the officer or by the owner of the land alone is subject to sale under the levy or judgment. If the officer making the levy or advertising the property for sale makes the selection of the homestead out of the lands levied upon or advertised for sale, he shall select lands in compact form, which shall include the dwelling house and its appurtenances thereon.

(3) If the plaintiff in execution or in the judgment is dissatisfied with the quantity of land selected and set apart as aforesaid either by the owner of the land or by the officer making the levy or advertising the land for sale, he shall cause it to be surveyed beginning at a point to be designated by the owner or by the officer making the levy or advertising for sale, and set off land in compact form including the dwelling house and its

appurtenances, to the amount specified in section 6023. The expense of the survey is chargeable on the execution or judgment and collectible thereupon.

(4) After the survey is made, the officer may sell the property levied upon or included in the judgment, and not included in the set off, in the same manner as provided in other like cases for the sale of real estate. In giving a deed of the property he may describe it according to the original levy or as described in the judgment, excepting therefrom by metes and bounds, according to the certificate of the survey, the quantity as set off as aforesaid.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6027 Homestead valued at more than \$3,500; procedure.

Sec. 6027. If the homestead of any debtor is appraised at a value of more than \$3,500.00, and cannot be divided, the debtor shall not for that reason lose the benefit of the exemption; but in such cases the officer shall deliver a notice, attached to a copy of the appraisal, to the debtor or to some of his family of suitable age to understand the nature thereof, that unless the debtor pay the officer the surplus over and above the \$3,500.00, or the amount due on the execution within 60 days thereafter, the premises will be sold.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Eff. Dec. 27, 1963.

600.6031 Execution sale; notice.

Sec. 6031. No sale of any goods or chattels may be made by virtue of any execution, unless at least 10 days' previous notice of such sale is given, by fastening up written or printed notices thereof, in 3 public places in the city or township where such sale is to be had, and specifying the time and place where the sale is to be had.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6032 Execution sale; personalty.

Sec. 6032. No personal property may be exposed for sale on execution, unless the same is present and within the view of those attending such sale; and it shall be offered for sale in such lots and parcels as shall be calculated to bring the highest price.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6033 Execution; property partially exempt; bond.

Sec. 6033. Whenever a levy is made upon any article, belonging to a class or species which is exempt from execution to a specified amount or value, and the value thereof as determined by the appraisal, is in excess of the amount of the exemption allowed therein to the defendant in execution, levy and sale thereof may be made under the execution in the ordinary way; and unless the amount of the exemption is claimed or set off in other property, or waived, the officer shall pay to the defendant in execution, the amount of such exemption, in money from the proceeds of the sale, and the balance of such proceeds shall be applied towards the satisfaction of the execution. If at the sale no bid is made for such property, in excess of the amount of the exemption allowed therein, such property shall not be sold, but shall be returned to the defendant. If the defendant in execution, before such sale, pays to the officer the difference between the appraised value of such property, and the amount of the exemption therein, not to exceed the amount due on such execution with costs of such levy, to be applied upon the execution, such property shall not be sold, but shall be returned to the defendant: Provided, That if after such officer has completed the levy upon such property, the defendant in execution gives to such officer a sufficient bond, to be approved by him, conditioned that said defendant will deliver said property to such officer or before the time of sale, pay to him the difference between the appraised value of such property, and the amount of his exemption, not to exceed the amount due on such execution with costs accrued, then such officer may permit such defendant to have possession of such property during the period intervening between the making of the levy and the time of sale.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6034 Execution; property subject to chattel mortgage.

Sec. 6034. The purchaser at a sale of goods or chattels pledged by way of mortgage or otherwise shall be entitled to pay, before foreclosure, to the person holding the mortgage or pledge the amount actually due thereon, or otherwise perform before foreclosure, the terms and conditions of the pledge, and on payment or performance, or on full tender thereof, shall acquire all the right, interest, and property which the defendant in execution would have had in such goods and chattels if no pledge or mortgage had been made.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6035 Levy on perishable property; sale; order of court; notice.

Sec. 6035. (1) Whenever the officer by virtue of any execution issued by a court, levies upon any perishable property, he shall proceed to sell it at such time, place, or manner as he may deem most beneficial for the interest of the defendant.

(2) A sale shall not be made except upon the written order of the court from which process has been issued, authorizing the sale at such time, place, and manner as the court shall judge most beneficial for the defendant. The court shall direct that notice be given to the defendant, or his agent, of the time and place of the sale, and the manner notice shall be given.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6036 Execution; growing grain or unharvested crops.

Sec. 6036. When a levy is made upon grain while growing, or on any unharvested crops by virtue of any execution, the officer making such levy shall file a notice of said levy in the office of the register of deeds of the county in which such grain or crops are at the time of making such levy; and such register of deeds shall file said notice in his office, in the same manner as he is required by law to file a chattel mortgage; and such notice shall be constructive evidence to all persons of the interest of the plaintiff in the execution, and shall be entitled to the same fees therefor, to be paid by the plaintiff in the execution, and shall be collected as costs in the case, and no sale of said crops or grain may be made until the same are ripe or fit to be harvested, and any levy thereon by virtue of an execution issued from a circuit court, shall be continued beyond the return day thereof, if necessary, and remain in life, and the execution thereof may be completed at any time within 30 days after such grain or other unharvested crops are ripe or fit to be harvested.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6037 Execution; corporate shares; seizure by officer; furnishing certificates of shares held by defendant; writ; record of transfer; restraint on transfer; dividends after levy.

Sec. 6037. (1) No attachment or levy upon shares of stock for which a certificate is outstanding, is valid until such certificate is actually seized by the officer making the attachment or levy, or is surrendered to the corporation which issued it, or its transfer is enjoined or restrained.

(2) The officer of any company who is appointed to keep a record or account of the shares or interest of the stockholders therein or in whose office there is required to be kept any list or statement showing the stockholders of such corporation and the number of shares held by each or their interest therein, is, upon exhibiting to him the attachment or execution, bound to give the officer a certificate of the number of shares or amount of the interest held by the defendant named in such attachment or the judgment debtor.

(3) Whenever any corporate shares of stock are attached or taken in execution, the officer shall leave a copy of the attachment or execution, certified by him, with the clerk, treasurer, cashier or agent of the corporation, if there is any such officer, and if not, then with any officer or person who has at the time the custody of the books and papers of the corporation within this state.

(4) A copy of the execution and the return thereon, certified by the officer executing the same, shall, within 14 days after the sale be left with the officer of the company whose duty it is to keep a record of the transfer of shares; and the purchaser shall thereupon be entitled to a certificate or certificates of the shares bought by him, upon paying the fees therefor, and for recording the transfer.

(5) Any court from which any attachment or execution is issued, shall have full power and authority upon motion, and without notice, to make an order restraining the transfer of any such shares of stock, and upon the service of a certified copy of such order, the same shall be fully effectual.

(6) If the shares or interest of the judgment debtor are attached in the suit in which the execution issued, the purchaser is entitled to all the dividends which have accrued after the levying of the attachment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6038 Execution; franchise of corporation authorized to receive toll; notice; adjournment; person deemed highest bidder; rights of purchaser; transfer; injury to franchise; recovery of penalties; powers, duties, and liabilities; redemption.

Sec. 6038. (1) The officer having execution against any corporation authorized to receive tolls, shall, 30 days, at least, before the day of sale of the franchise, or other corporate personal property, give notice of the time and place of sale, by posting up a notice thereof in any township in which the clerk, treasurer, or any one of the directors of such corporation may dwell, and also by causing an advertisement of the sale, expressing the name of the creditor, the amount of the execution, and the time and place of sale, to be inserted 3 weeks successively in some newspaper published in any county in which either of the aforesaid officers may dwell, if any such there be, and if no newspaper is published in any such county, then in a paper published in an adjoining county.

(2) The officer who may levy any execution, as prescribed in (1), may adjourn the sale from time to time as may be necessary, until the sale is completed.

(3) In the sale of the franchise of any corporation, the person who shall satisfy the execution, with all legal fees and expenses thereon, and shall agree to take such franchise for the shortest period of time, and to receive during that time all such toll as the said corporation would by law be entitled to demand, shall be considered as the highest bidder.

(4) The officer's return on such execution shall transfer to the purchaser all the privileges and immunities which by law belong to such corporation, so far as relates to the right of demanding toll; and the officer shall, immediately after such sale, deliver to the purchaser possession of all the toll houses and gates belonging to such corporation, in whatever county the same may be situated; and the purchaser may thereupon demand and receive all the toll which may accrue during the time limited by the terms of his purchase, in the same manner, and under the same regulations, as such corporation was before authorized to demand and receive the same.

(5) Any person who purchases, under the provisions of this chapter, the franchise of any turnpike or other corporation, and the assignees of such purchaser, may recover any penalties imposed by law for an injury to the franchise, or for any other cause, which such corporation would have been entitled to recover during the time limited in the said purchase of the franchise; and during that time the corporation shall not be entitled to prosecute for such penalties.

(6) The corporation whose franchise shall have been sold as aforesaid shall, in all other respects retain the same powers, and be bound to the discharge of the same duties, and liable to the same penalties and forfeitures, as before such sale.

(7) Such corporation may, at any time, within 3 months after such sale, redeem the franchise, by paying or tendering to the purchaser thereof the sum that he shall have paid therefor, with interest thereon, but without any allowance for the toll which he may have received; and upon such payment or tender, the said franchise, and all the rights and privileges thereof, shall revert and belong to said corporation, as if no such sale had been made.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6041 Execution; fees and charges of sale.

Sec. 6041. The lawful fees and charges of the sale upon any execution in the manner prescribed in this chapter, shall, in all cases, be added to the amount due on the execution, and be considered as a part thereof for all the purposes mentioned in this chapter.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6042 Postponement of sale; public declaration; notice.

Sec. 6042. If, at the time appointed for the sale of any real or personal property on execution, the officer shall deem it expedient and for the interest of all persons concerned, to postpone the sale for want of purchasers or other sufficient cause, he may postpone the sale from time to time until the sale is completed. He shall make public declaration thereof at the time and place previously appointed for the sale. Notice thereof shall be given in the same manner as provided in section 6052.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6043 Execution; where more than one levy.

Sec. 6043. In case of levies made on more than 1 of the executions provided for in section 6005, sale shall only be made on 1 execution at a time, and under the direction of the plaintiff's attorney. No more sales of the property may be made than is necessary to satisfy the judgment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6044 Execution; surplus; disposition.

Sec. 6044. If, after any sale made as herein prescribed there remains in the hands of the officer any surplus money after satisfying the writ or writs of execution on which such property was sold, with the interest thereon, the officer shall pay over such surplus to the judgment debtor or his legal representatives on demand.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6045 Execution; refusal of highest bidder to take property; effect.

Sec. 6045. (1) If the highest bidder for any property at any sale on execution refuses to take and pay for it, he is liable for any loss on resale.

(2) In such case the officer shall sell the property again at the same time, or thereafter, giving notice of the second sale.

(3) The officer conducting the sale may sue to enforce the liability under subsection (1), and may recover in the action the expenses of the second sale, and may tax reasonable attorney fees as costs.

(4) The officer shall account for what he receives on the second sale and for any damages recovered under subsection (1) as for so much received on the execution.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6046 Execution; officer not to purchase or be interested.

Sec. 6046. The sheriff or other officer to whom execution is directed, and the deputies of such officers, shall not directly or indirectly, purchase or be interested in the purchase of any property at any sale by virtue of execution.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6047 Payment by debtor of judgment debtor.

Sec. 6047. After issuing execution to collect a judgment, any person indebted to the judgment debtor may pay to the officer having the execution the amount of his debt, or so much thereof as is necessary to satisfy the execution, and the receipt of the officer having such execution is a discharge of the indebtedness of such person to the judgment debtor to the extent of the amount so paid.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6051 Execution against real estate; effect; notice; invalid after 5 years.

Sec. 6051. No levy by execution on real estate is valid:

(1) Against bona fide conveyances made subsequent to such levy, until a notice thereof, containing the names of the parties to the execution, a description of the premises levied upon, and the date of such levy, is filed by the officer making the levy in the office of the register of deeds of the county where the premises are situated. Such levy is a lien thereon from the time when notice is deposited; and the lien thus obtained is, from the filing of such notice, valid against all prior grantees and mortgagees of whose claims the party interested has neither actual nor constructive notice. The register shall record the same in full upon the records of that office, and make an index to the record, in a manner convenient for public reference, of the names of the parties to the execution as stated in the notice. The officer shall receive for making and recording the notice, the sum of 50 cents, and the register of deeds shall receive the same fee as is allowed by law for recording deeds, which fee the serving officer shall add to the costs to be collected by the execution and in like manner, collect the same. When the execution is fully paid, satisfied or discharged, the clerk of the court who issued execution, shall give to the defendant a certificate, signed by the sheriff and under seal of the court, that the execution is satisfied or discharged; and the certificate may be recorded in the same manner as is notice.

(2) After the expiration of 5 years from making the levy, unless the real estate is sold thereon or within such period.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1967, Act 278, Eff. Nov. 2, 1967.

600.6052 Notice of time and place of sale.

Sec. 6052. Prior to the sale of any real estate taken on execution, notice of the time and place of holding the sale, the notice to describe the real estate with common certainty by setting forth the name or number of the township in which it is located, and the number of the lot, or by other appropriate description of the premises shall be given as follows:

(1) A written or printed notice shall be displayed in 3 public places in the township or city where the real estate is to be sold at least 6 weeks prior to the sale, and if the sale is in a township or city other than that wherein the premises are located, notice shall also be displayed in 3 public places in the township or city in which the premises are located.

(2) A copy of the notice shall be published once each week for the 6 successive weeks prior to the sale in a newspaper printed in the county in which the premises are located, or, if there is no newspaper, in a newspaper printed in an adjoining county.

(3) If the sheriff or other officer adjourns the sale for more than 1 week, he shall give notice in the newspaper in which the original notice was published and shall continue to publish notices weekly throughout the adjournment. Notice of adjournment must also be displayed for a like period at the place where the sale is to be held.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6053 Execution; time, place, adjournment.

Sec. 6053. (1) The sale of real estate by virtue of any execution shall be by public sale, between the hour of

9 o'clock in the morning and 4 o'clock in the afternoon, at the court house or place of holding the circuit court in the county in which the real estate is situated.

(2) The sheriff or other officer making the sale has the power to adjourn the sale for reasonable cause and for a reasonable period.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6054 Execution; irregular sale; taking down or defacement of notice; liability; irregularities not to invalidate.

Sec. 6054. (1) Any officer who sells any real estate, without the previous notice herein directed, or otherwise than in the manner herein prescribed, shall be liable therefor to the party injured, in the sum of \$500.00 damages, in addition to any actual damages which such party may prove on the trial of an action brought for the recovery of the same.

(2) If any person takes down or defaces any notice of a sale of real estate, put up by any officer, previous to the day of sale therein specified, unless upon satisfaction of the execution by virtue of which such notice shall have been given, or upon the consent of the party suing out such execution, and of the defendant therein, such person shall be liable therefor to the party in whose favor such execution was issued, in the sum of \$50.00 damages.

(3) The omission of any officer to give the notice of sale required in this chapter, or the taking down or defacing any such notice when put up, does not affect the validity of any sale made to a purchaser in good faith, without notice of such omission, taking down or defacing.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6055 Execution; certificates, contents; filing; disposition; recording; use as evidence.

Sec. 6055. (1) Upon the sale of any real estate by virtue of an execution, the officer making the same shall make and subscribe as many certificates of such sale as may be necessary, containing:

- (a) A particular description of the premises sold;
- (b) The price bid for each distinct lot or parcel sold;
- (c) The consideration money paid for each lot or parcel; and

(d) The time when such sale shall become absolute, and the purchaser will be entitled to a deed, as hereinafter provided, and shall indorse on each of said certificates the rate of interest borne by the judgment upon which said execution issued.

(2) One of the certificates shall be delivered to each purchaser at the sale and 1 of the certificates shall, within 10 days after the sale, be filed for record by the officer making the sale, in the office of the register of deeds of the county in which the sale is made; and the register of deeds shall cause the certificate to be recorded in a book kept for that purpose.

(3) The original certificate, or the record thereof, or a transcript of the record, duly certified by the register of deeds shall be prima facie evidence of the facts therein set forth, of the regularity of the sale, and of all proceedings in the cause anterior thereto.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6056 Separate exposure of lots, tracts, or parcels for sale; sale of undivided interest.

Sec. 6056. (1) When any real estate offered for sale by virtue of any execution consists of several known lots, tracts, or parcels, such lots, tracts, or parcels shall be separately exposed for sale, and the judgment debtor may direct which piece or parcel shall be first exposed for sale.

(2) No more of the tracts and parcels may be exposed for sale than appear necessary to satisfy the execution, with the costs and expenses of the sale.

(3) When any judgment debtor has an undivided interest with the same parties in several parcels of land, the officer may levy on, advertise, and sell, as a single parcel, the interest of the judgment debtor in any or all of the undivided and unpartitioned tracts or parcels in his bailiwick.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6057 Execution; leasehold interest; rights of purchaser; conveyance; deposit; recording; filing notice of levy; effect; payment of rent.

Sec. 6057. (1) When a leasehold interest is sold on execution, the purchaser is entitled to all the rights and privileges of the defendant in and to the leasehold premises, and may immediately obtain possession thereof from the defendant or person holding under him in the manner provided in the case of an unlawful detainer of lands.

(2) The officer making the sale shall, within 10 days thereafter, execute to the purchaser a conveyance of

the leasehold interest, which conveyance, if the unexpired term of such lease then exceeds 3 years, shall be by deed duly executed and acknowledged, as in the case of a conveyance of real estate, which deed shall be deposited with said register of deeds, but shall not be recorded until the expiration of 1 year after the day of sale, and the officer making the sale shall indorse on such deed the date on which it will be entitled to record.

(3) The filing of notice of levy on a leasehold, shall be notice of all the rights acquired by the plaintiff and purchaser at the sale, and the plaintiff in execution or his attorney, shall be thereafter entitled to reasonable notice from the lessor in case the lessor intends to forfeit the lease for any default made by the lessee, or person claiming under him, to the end that the plaintiff shall have a reasonable opportunity to comply with the terms of the lease and save a forfeiture. In case the plaintiff or execution purchaser is compelled to pay any rent due at the date of sale on execution or previous thereto, no redemption may be allowed until the amount so paid is refunded to the plaintiff or execution purchaser, with interest, in addition to the amount for which such leasehold interests may be sold on execution.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6058 Repealed. 2004, Act 538, Eff. Mar. 30, 2005.

Compiler's note: The repealed section pertained to vendor interest in land contract and disposition of payments.

600.6059 Execution; homestead; sale in case surplus not paid.

Sec. 6059. In case the surplus, or the amount due on the execution or judgment is not paid according to the provisions of section 6027 of this chapter, it shall be lawful for the officer to advertise and sell the said premises, and out of the proceeds of said sale to pay such debtor the sum of \$3,500.00, which shall be exempt from execution for 1 year thereafter, and apply the balance on said execution. No sale may be made in the case last mentioned, unless a greater sum than \$3,500.00 is bid therefor, in which case the officer may return said execution for want of property, or report the facts to the court in which said judgment was rendered, as the case may require.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963.

600.6060 Execution; not made on equity of redemption on certain judgment; endorsement on execution; direction to officer.

Sec. 6060. (1) When judgment is recovered for a debt or any part of a debt secured by mortgage of real estate, there can be no sale of the equity of redemption in such estate, by virtue of any execution upon such judgment.

(2) Whenever any execution against the property of the defendant is issued on such a judgment, the plaintiff or his attorney shall indorse on such execution a brief description of the mortgaged premises with a direction not to levy upon said premises or any part thereof and if execution cannot be collected from the other property of the defendant, the officer shall return the same unsatisfied.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6061 Execution; rights of purchaser.

Sec. 6061. When any sale, by virtue of any execution, or attachment, becomes absolute, the purchaser at such sale acquires all the rights and interests that the debtor had in and to the realty sold at the time of the levy by virtue of the execution or attachment; including in either case the right to enforce specific performance of any contract upon performing the conditions thereof as stipulated therein by the debtor.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6062 Redemption of real estate; time; persons entitled to make; effect on sale and certificate; amount stated in recorded affidavit.

Sec. 6062. (1) Not later than 1 year from the date when sale on execution is made, the real estate sold or any distinct lot, tract, or portion that is separately sold or the interest in real estate so sold may be redeemed by payment to the purchaser, to the purchaser's personal representatives or assigns, or to the officer who makes the sale, or to the register of deeds in whose office such certificate is recorded, for the use of the purchaser, of the sum of money bid on the sale of the lot or tract, together with the interest on that sum from the date of sale, computed at the interest rate provided for by the judgment under which the sale was made. The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded under this section that states the exact amount required to redeem the property, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated in the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact

amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(2) Redemption may be made by any of the following:

(a) The person against whom the execution is issued and whose right and title are sold in pursuance of the execution.

(b) If the person is dead, by his or her devisee of the premises sold, and if there is no devisee, by the executor or administrator with the approval of the judge of probate, or by the person's heirs.

(c) By any grantee of the person who acquires an absolute title by deed, sale under mortgage, or under an execution, or by any other means, to the premises sold or to any lot, tract, parcel, or portion which is separately sold.

(d) The purchaser of the title and right of redemption of the person against whom the execution issues.

(e) Any heir or devisee of the person, or any grantee of the heir or devisee, who acquires an absolute title to a portion of the estate sold, or to a portion of any lot, tract, or parcel that is separately sold, or the executor or administrator of the person, with the approval of the judge of probate. The person has the same remedy to enforce contribution from those who own the residue of the lot, tract, or parcel as if the sum required to be paid by him or her to effect redemption was collected by a sale of the portion belonging to the grantee.

(f) Each of several persons having undivided shares, as joint tenants or tenants in common, in the premises sold, or in any particular lot or tract sold, by paying to the purchaser or officer a sum that bears the same proportion to the whole sum bid for the premises or for the particular lot or tract as the share proposed to be redeemed bears to the whole number of shares of the premises, lot, or tract, together with the interest on the sum.

(g) A defendant lessee where the unexpired term of the lease exceeds 3 years at the date of sale on execution. On the redemption, the defendant is entitled to repossess, recover, and enjoy the premises from the execution purchaser or the purchaser's assigns.

(3) Upon payment being made by any person so entitled to redeem any real estate so sold, the sale of the premises so redeemed and the certificate of the sale and deed to the extent of the premises or shares so redeemed are void.

(4) The amount stated in any affidavits recorded under this section shall be the amount necessary to satisfy the requirements for redemption under this section.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2004, Act 538, Eff. Mar. 30, 2005.

600.6063 Acquisition by creditor of interest vested in original purchaser by sale; terms.

Sec. 6063. (1) In case the persons entitled as hereinbefore provided omit to redeem the premises sold, or any part of them, within the year prescribed, then the interest vested in the purchaser by the sale may be acquired within 3 months after the expiration of the year, by the persons, and on the terms hereinafter prescribed.

(2) Any creditor of a person against whom the execution issues having in his own name, or as assignee, representative, trustee, or otherwise, a judgment under which execution has issued and levied upon the real estate sold, or a judgment which is a lien without execution and levy, or any purchaser at a subsequent sale under a junior levy whose title has not become absolute, at any time before the expiration of 15 months from the time of the sale, by paying the sum of money which was paid on the sale of the premises, together with the interest thereon, computed at the rate borne by the judgment under which the sale was made, from the time of the sale, shall acquire all the rights of the original purchaser, subject to be defeated in the manner hereinafter mentioned.

(3) If the execution issued and levied under the creditor's judgment, or the judgment is a lien upon any lot, tract, or parcel, that has been separately sold, the creditor having the same by paying as before provided the sum bid for the lot, tract, or parcel, with interest as above mentioned, shall acquire all the rights of the original purchaser to the lot, tract, or parcel, subject to be defeated as hereinafter provided.

(4) If the execution so levied, or the judgment, is a lien only on a specific portion of a lot, tract, or parcel sold, the creditor may acquire the title of the purchaser to the whole of the lot, tract, or parcel, in the same manner as if the lien extended to the whole.

(5) A creditor having the judgment or execution so levied or any purchaser at a subsequent sale under a junior levy whose title has not become absolute, which is a lien upon any undivided share or interest in any real estate sold under execution, may, within the same time, on the same terms, and in the same manner, acquire the title of the original purchaser to the share or interest by paying such part of the whole purchase money of the real estate as shall be in just proportion to the share or interest.

(6) Any creditor having a mortgage of any lands sold on execution, his representatives, or assigns, where

the mortgage was executed subsequent to the levy in pursuance of which the mortgaged premises were sold, may acquire the interest vested in the purchaser at the sale, on the terms provided in subsection (2).

(7) Creditors may acquire the right of the original purchaser in the order of their liens.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6064 Acquisition by creditor of interest vested in original purchaser by sale; purchase by other creditors; acquisition by original purchaser, execution plaintiff, or mortgagee.

Sec. 6064. (1) Whenever any creditor, or purchaser, acquires the title of the original purchaser pursuant to the foregoing provisions, any other creditor who might have acquired the title according to such provisions may become a purchaser thereof from the first creditor who acquired the title, upon the following conditions:

(a) By reimbursing to the first creditor, his personal representatives, or assigns, the sum which may have been paid by him to acquire the title, together with interest thereon, computed as hereinbefore provided, from the time of the payment to the time of the reimbursement;

(b) If the levy under the execution or judgment, by virtue of which the first creditor acquired the title of the original purchaser, be prior to the levy or judgment of the second creditor, then the second creditor shall also pay to the first creditor the amount due on his judgment;

(c) But if the levy under the execution or the judgment of the first creditor, at the time of his acquiring the title of the original purchaser, shall have ceased to be a lien as against the second creditor, it shall not be necessary to pay the amount thereof.

(2) In the same manner any third or other creditor or purchaser at subsequent sale under a junior levy whose title has not become absolute, who might, according to the foregoing provisions, acquire the title of the original purchaser, may become a purchaser thereof, from the second, third, or any other creditor, who may have become such purchaser from any other creditor upon the same terms and conditions specified in (1).

(3) If the original purchaser of any premises sold, is also a creditor of the defendant against whom the execution issued, and as such might acquire the title of any purchaser, according to the preceding provisions, he may avail himself of his judgment in the same manner, and on the same terms herein prescribed, to acquire the title which any creditor may have obtained.

(4) The plaintiff under whose execution any real estate has been sold shall not acquire the title of the original purchaser, or of any creditor, to the premises sold, by virtue of the judgment on which the execution issued; but if he has any other judgment which would entitle him to acquire the title, according to the preceding provisions, he may avail himself of the other judgment, in the same manner, and on the same terms as any other creditor.

(5) Creditors may acquire the interest of the original purchaser acquired by a mortgagee under subsection (6) of section 6063. Unless an execution has been issued on the creditor's judgment and a levy made by virtue thereof on the mortgaged premises, previous to the execution of the mortgage, a creditor acquiring the right of the original purchaser from the mortgagee, his representatives or assigns, shall pay to the mortgagee, his representatives or assigns, the amount due on the mortgage, and be subrogated to the rights of the owner thereof. The creditor shall also reimburse, with interest, the amount paid by the mortgagee, his representatives, or assigns, to acquire the rights of the original purchaser.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6065 Acquisition of interest of original purchaser; evidence of right of creditor to purchase.

Sec. 6065. To entitle any creditor to acquire the title of the original purchaser, or to become a purchaser from any other creditor, he shall present to and leave with such purchaser or creditor, or the officer who made the sale, or with the register of deeds in whose office the certificate of sale is recorded, the following evidence of his right:

(1) A certified copy of the judgment under which he claims the right to purchase;

(2) A true copy of all the assignments of such judgment, which are necessary to establish his claim, verified by his affidavit, or the affidavit of some witness thereto;

(3) An affidavit by such creditor, his agent or attorney, of the true sum due on such judgment, at the time of claiming such right to purchase.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6066 Acquisition of interest of original purchaser; transfer of title; automation fund.

Sec. 6066. (1) The sums required to be paid under this act, to acquire the title of the original purchaser or to become a purchaser from any creditor, may be paid to the purchaser or creditor, to his or her representatives or assigns, or to the officer who made the sale for the use of the purchaser or creditor entitled

to the sums paid.

(2) If the purchaser of any equity of redemption, or any creditor having acquired the rights of the purchaser, shall pay the debt due on the mortgage, or the amount of any sale of said premises sold on execution, or any part of the property, the amount paid on the mortgage or execution sale shall be paid, with interest, to the purchaser or creditor, in redeeming the premises, or purchasing the rights of the purchaser or creditor, as provided under this chapter.

(3) Upon payment being made, the title of the original purchaser shall be transferred to the creditor acquiring title under the foregoing provisions and from the creditor to any other creditor becoming a purchaser of the property.

(4) If an automation fund is created under section 2568, any fees or charges collected by the register of deeds under this section or section 3140, 3240, or 6062 shall be credited to the automation fund.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2004, Act 538, Eff. Mar. 30, 2005.

600.6067 Right to deed; assignments.

Sec. 6067. When the premises mentioned in any officer's certificate of sale of real estate under execution is not redeemed, the legal holder of the certificate is entitled to a deed therefor at any time within 10 years from the expiration of the time of redemption. Before any assignee or his personal representative shall be entitled to a deed, every assignment under which he claims title shall be executed and acknowledged or proved in the same manner that deeds are required to be executed, acknowledged, or approved, to entitle the same to be recorded, and the assignee shall cause them to be recorded in the office of the register of deeds in the county where the real estate sold is situated. When the deed is not taken and recorded in the time limited by this chapter, the certificate of purchase shall become null and void.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6068 Vesting of title; action for injury to realty by grantee in deed; action for waste, injury, or removal of realty or fixtures for benefit of person acquiring rights.

Sec. 6068. (1) The right and title of the person against whom execution was issued, to any real estate sold thereon, shall not be divested by such sale until the expiration of 15 months from the time of such sale.

(2) If such real estate is not redeemed, and a deed is executed in pursuance of a sale, the grantee in such deed shall be deemed vested with the legal estate from the time of such sale for the purpose of maintaining an action for injury to such real estate.

(3) If, at any time after a sale of real estate on execution, and before a deed is executed in pursuance of the sale, the defendant in the execution or any other person, commits waste on the real estate or removes from it any buildings, fences, or other fixtures belonging to the land which would pass to the grantee by a deed of conveyance of the land, the purchaser at the sale or any person who has acquired his rights, may have and maintain, against the person doing the injury and against any other person who has the buildings, fences or fixtures in his possession after such removal, the same actions which the absolute owner of the premises would be entitled to.

(4) After the commencement of any such action as mentioned in subsection (3) of this section, if any other creditor shall acquire the rights of the purchaser at such sale in pursuance of the provisions of this chapter, such action shall not thereby be abated or in any way affected; but the same may be prosecuted in the name of the plaintiff therein to final judgment, for the benefit of the person acquiring such rights after the commencement of the action, if he shall choose to prosecute the same, and if not, such plaintiff may continue the same for his own benefit.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6069 Conveyance of premises; time; effect; executor, administrator, or person equitably entitled; real estate held in trust.

Sec. 6069. (1) After the expiration of 15 months from the time of the sale of any real estate, if any part of the premises sold shall remain unredeemed by the person against whom the execution issued, or by any person entitled to redeem the same within 1 year from the time of such sale, according to the provisions of this chapter, the officer making such sale, or his successor in office, shall complete the same, by executing, in due form of law, a conveyance of the premises so remaining unredeemed, either to the original purchaser or to the creditor who may have acquired the title of such original purchaser, or to the assigns of such purchaser, or to the creditor who may have purchased such title from any other creditor, as the case may be; which conveyance shall be valid and effectual to convey all the right, title and interest which was sold on such execution.

(2) In case the person who would be entitled to a conveyance of any real estate sold by virtue of an

execution dies before the execution of the conveyance, the officer shall execute and deliver such conveyance to the executor or administrator of the person so deceased. In any case under this section, where the rights of the person or persons entitled to such real estate, or any interest therein, shall render it necessary, the circuit court of the county in which the officer who made the sale resided, on a hearing of the parties interested, properly brought before it by complaint, may direct the conveyance to be made to the person or persons equitably entitled thereto, in such manner as shall be just; and such conveyance shall have the same effect as provided in subsection (1) of this section.

(3) The real estate so conveyed to any such executor or administrator shall be held in trust for the use of the heirs of such deceased person, subject to the dower of his widow, if there be any; but the same may be sold for the payment of debts and legacies, in the same manner as lands whereof the deceased died seized.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6070 Redemption; discharge of levy, judgment, or mortgage; fee.

Sec. 6070. In all cases of redemption of lands sold on execution, or in all cases of the sale of lands on mortgage foreclosure, whether by advertisement or sale under court order, or in all cases of payment of judgments where the record shows a levy, or any other lien by mortgage levy, or lis pendens, it shall and may be lawful and it is hereby made the duty of the officer making such sale, or the person receiving such money, or his attorney, to discharge such levy, judgment, or mortgage from the record of the register of deeds, in the proper county in which such sale is made. The fee for recording shall be the same as provided by law for the recording of discharges of mortgages.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6071 Contribution among several judgment debtors; order of contribution; enforcement; lien of original judgment; affidavit; recording.

Sec. 6071. (1) When lands and tenements, in the hands of several persons, are liable to satisfy any judgment, and the whole of such judgment, or more than a due proportion thereof, is levied upon the lands of 1 or more of such persons, the persons so aggrieved, or their personal representatives, may compel a just and equal contribution by all the persons whose lands and tenements ought to contribute to the satisfaction of such judgment.

(2) Such lands and tenements are liable to contribution in the following order:

(a) If they were conveyed by the defendant in the execution, they are liable in succession, commencing with the lands last conveyed;

(b) If they were sold under execution against the defendant, they are also liable in succession, commencing with the lands sold under the last and youngest judgment;

(c) If there be lands so liable, which were conveyed by the defendant in the execution and also lands which have been sold under execution against such defendant, they are respectively liable in succession, according to the order hereinbefore prescribed.

(3) If a complaint is filed to enforce such contribution, the person aggrieved shall be entitled to use the original judgment, and by virtue thereof, to pay the amount which ought to be contributed by the lands and tenements subject to such judgment; and for that purpose, such judgment shall remain a lien and charge upon such lands and tenements, for the term of 5 years after a certified copy thereof shall have been filed and entered in the office of the register of deeds in the county where the lands are situated, to the extent of the sum which ought to be so contributed, notwithstanding such sum or any part thereof, may have been paid by the party seeking such contribution.

(4) But such original judgment does not remain a lien upon any lands, nor are they subject to an execution as herein provided, unless the person aggrieved files for record an affidavit with the register of deeds in whose office a certified copy of such judgment has been recorded, stating the sum paid, and his claim to use such judgment for the reimbursement thereof, or of some portion of the same.

(5) The register of deeds shall record such affidavit and make an entry in the margin of the entry of the certified copy of such judgment, stating the sum so paid, and that such judgment is claimed to be a lien to that amount.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6072 Eviction of purchaser; recovery of purchase price; further execution for benefit of purchaser; validity of original judgment.

Sec. 6072. (1) If the purchaser of any real estate, sold by virtue of an execution, his heirs or assigns, shall be evicted from the possession of such real estate, or if in an action for the recovery thereof, judgment shall be rendered against him or them, in consequence:

(a) Of any irregularity in the proceedings concerning such sale; or
(b) Of the judgment upon which such execution issued being vacated or reversed; such purchaser, his heirs or assigns, may recover of the party for whose benefit such real estate was sold, the amount paid on the purchase thereof, with interest.

(2) The party for whose benefit such real estate was sold, and his personal representatives, upon such recovery being had against him in consequence of any irregularity in the proceedings concerning the sale, may have further execution upon the judgment by virtue of which such sale was made, to levy the amount paid on such sale, with interest.

(3) Such judgment shall be deemed valid and effectual for the purpose specified in subsection (2) of this section, against the defendant therein, his personal representatives, heirs, and devisees, but not against any purchaser in good faith, or any incumbrancer by mortgage, judgment or otherwise, whose title or incumbrance shall have accrued before the levy of such further execution.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6075 Civil arrest; grounds.

Sec. 6075. Except as otherwise provided by law, no person is liable to arrest or imprisonment on any civil process unless:

(1) In a proceeding for contempt of court; or
(2) On an action to recover a fine or penalty; or
(3) After a judgment against such person, the judgment creditor provides satisfactory evidence showing 1 or more of the following circumstances:

(a) The judgment debtor has property which he fraudulently conceals or which he unjustly refuses to apply to the judgment against him, and such judgment belongs to such judgment creditor; or

(b) The judgment debtor is about to remove his property out of the jurisdiction of the court in which suit was brought, with the intent to defraud his creditor; or

(c) The judgment debtor has, or is about to dispose of some or all of his property with intent to defraud his creditor.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6076 Civil arrest; prerequisite.

Sec. 6076. Except in a contempt proceeding, no warrant for civil arrest shall issue unless:

(1) Execution has been made and returned against all the property of the judgment debtor in that county and such property is not sufficient to satisfy such judgment; and

(2) Such warrant issues within 30 days from the return of the execution.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6077 Warrant to arrest judgment debtor.

Sec. 6077. (1) Upon satisfactory proof of any of the grounds for civil arrest named in subsections (2) and (3) or section 6075, any judge of the court which rendered the judgment shall issue a warrant to arrest the judgment debtor.

(2) The warrant shall issue under the hand of the judge in behalf of the people of this state and shall be directed to the sheriff, bailiff, or other officer of the county, district court district, or municipality within which the issuing judge is serving. It shall state the nature of the judgment and command that the judgment debtor be arrested and brought before the judge issuing the warrant, without delay.

(3) The warrant shall be accompanied by a copy of each affidavit, if any, on which the warrant was issued. The copies shall be certified by the judge who issued the warrant, and delivered to the judgment debtor at the time of serving the warrant.

(4) The warrant shall be executed by the arrest of the judgment debtor and his delivery to the judge issuing the warrant, or, some other judge having jurisdiction of the case, and the holding of the judgment debtor until he is committed or discharged according to law.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6078 Hearing; detention of judgment debtor.

Sec. 6078. (1) Upon delivery of the judgment debtor to the judge, the judge shall hold a hearing and, after hearing the proofs, the allegations of the judgment creditor are substantiated and the proof of the grounds for civil arrest as described in subsections (2) and (3) of section 6075 has been given, he shall direct that the judgment debtor be committed to the jail of the county in which the hearing is held, to be there detained until he shall be discharged according to law. The judgment debtor shall be detained accordingly.

(2) A person arrested on civil process and brought before the proper judge for hearing, may controvert any of the facts and circumstances on which the warrant issued, and may, at his option, verify his allegations by his own affidavit. In such case the plaintiff may examine the defendant on oath touching any fact or circumstance material to the inquiry. The answers of the defendant on the examination shall be reduced to writing, and subscribed by him. The judge conducting the inquiry shall also receive such other proofs as the parties may offer, either at the time of the first appearance, or at such other time as the hearing shall be adjourned to. In case of an adjournment, the judge may take a recognizance with surety from the defendant for his appearance at the adjourned meeting, and conditioned that the defendant will not meanwhile secrete, destroy, dispose of, or in any manner make away with, or put out of his possession, any of his property not exempt from sale on execution. In case the defendant refuses to enter into the recognizance, he shall be committed to the county jail, there to remain until such time as the hearing is completed.

(3) The judge conducting the inquiry has the same authority to issue subpoenas for witnesses, to enforce obedience to the subpoenas, and to punish witnesses refusing to testify as is conferred by law upon such judges in cases of other proceedings before them. The defendant may demand a jury of 6 jurors to try the issue joined in the matters charged or alleged against him in the affidavit or affidavits exhibited to or before the judge conducting the inquiry. The jury shall be selected and summoned in the same manner, as near as may be, as in the trial of criminal cases. The judge has the same power in relation to the selection, summoning, and swearing the jury and conducting the jury trial, as near as may be, as in the trial of criminal cases.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6079 Civil arrest; discharge.

Sec. 6079. The judgment debtor may avoid commitment or be discharged from commitment by:

- (1) Paying the amount due on the judgment with interest and costs; or
- (2) Making a general assignment of all his property for the benefit of his creditors; or
- (3) Obtaining a judgment in his favor on appeal of the judgment creditor's judgment; or
- (4) Entering into a bond to the plaintiff in an amount of twice the sum of the judgment, interest and costs, giving such surety as shall be approved by the committing officer, and conditioned that within 30 days of the hearing the judgment debtor will file a petition for adjudication in bankruptcy, under the federal bankruptcy law, and diligently prosecute the same until he obtains a discharge, and that he will not, before obtaining such discharge in bankruptcy, in any way dispose of any money, property, or rights in action, or interest in any public or corporate stock, or evidence of debt, or anything valuable whatever, which he possessed at the time of such arrest, not exempt from execution; or
- (5) Entering into a bond to the plaintiff in an amount of twice the sum of the judgment, interest and costs, giving such surety as shall be approved by the committing officer, and conditioned that within 6 months of the hearing, the judgment debtor shall pay the judgment, interest and costs; or
- (6) Posting bail as prescribed in section 6080; or
- (7) The failure of the judgment creditor to pay the judgment debtor's board in advance as required by section 6082; or
- (8) The expiration of 90 days if the arrest was to recover a fine or penalty.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6080 Civil arrest; bail.

Sec. 6080. (1) Any person arrested on civil process is entitled to bail during the time within which he may appeal the proceeding on which the arrest was made, or until a final determination of his appeal has been made.

(2) In a contempt proceeding, the amount of bail shall be set by the judge or officer presiding over such proceeding.

(3) In all other cases, the amount of bail shall be twice the amount of the judgment, fine or penalty on which the arrest was made.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6081 Civil arrest; bail; bond; forfeiture; release.

Sec. 6081. (1) If, within the time prescribed in subsection (1) of section 6080, the judgment debtor is not discharged, and fails to surrender himself for commitment, his bail is forfeited and the judgment creditor shall have satisfaction out of such bail.

(2) If, within the time prescribed in subsection (5) of section 6079, the judgment debtor is not discharged and fails to pay the judgment, interest and costs, his bond is forfeited and the judgment creditor shall have

satisfaction out of such bond.

(3) Bail is released by the release of the judgment or upon the surrender of the judgment debtor for commitment within the prescribed period.

(4) Bond is released by the release of a judgment or upon the payment of the judgment, interest and costs, within the prescribed period.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6082 Imprisonment; segregation from criminals; payment of board.

Sec. 6082. (1) Those persons committed on civil process shall be segregated from those committed on criminal process.

(2) The board of any person committed under civil process, except for contempt or for collection of fines and penalties, shall be paid in advance by the judgment creditor to the sheriff or keeper of the jail. On failure to pay such board, the judgment debtor shall be released and shall no longer be liable to civil arrest on the judgment under which he was committed.

(3) In the case of collection of fines or penalties, the board of the prisoner shall be added to the amount of such fines or penalties and collected as part of the original judgment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6083 Imprisonment; sheriff's liability for escape.

Sec. 6083. (1) All prisoners committed on civil process shall be actually confined in jail until discharged according to law; and if any sheriff or keeper of jail permits any prisoner to leave confinement before such time, such sheriff or keeper is liable to the judgment creditor for the damages sustained and shall be guilty of a misdemeanor.

(2) But if the prisoner is returned to custody before commencement of an action based on the liability herein described, then such liability shall be null and void.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6084 Imprisonment; discharge; effect.

Sec. 6084. Discharge of the judgment debtor from imprisonment only bars further civil arrest of the judgment debtor on the same judgment, and does not preclude the judgment creditor from any other action on the same judgment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6085 Removal or concealment of property to avoid execution; misdemeanor.

Sec. 6085. Any person who removes any of his property out of any county, with intent to prevent the same from being levied upon by an execution or who secretes, assigns, conveys, or otherwise disposes of any of his property, with intent to defraud any creditor, or to prevent such property from being made liable for the payment of his debts and any person who receives such property with such intent, shall, on conviction thereof, be deemed guilty of a misdemeanor.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6086 Transfer of property by judgment debtor after commitment; validity.

Sec. 6086. Transfers by the judgment debtor of any property, except property exempt from execution, made after the judgment debtor's commitment, or while he is free on bail, are void except as to bona fide purchasers from the transferee for value without notice.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6091 Sale of real estate pursuant to judgment; notice; procedure; fees.

Sec. 6091. Any person duly authorized by an order of the court to sell real estate in pursuance of any judgment, except as otherwise provided by order of the court or by a rule of court, shall give notice of, and conduct the sale as in the case of sale of real estate on execution. The person making the sale shall have the same power and authority and be subject to the same liability as in the case of sale of realty on execution. All lawful fees for advertising and conducting the sale shall be added to the amount due on the judgment and collected therewith.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6092 Judgment against absent, concealed, or nonresident defendant; sequestration of realty or personalty; delivery of possession of property; satisfaction out of estate and effects sequestered.

Sec. 6092. (1) In the case of a judgment against an absent, concealed, or nonresident defendant, process may issue to compel the performance of such judgment either by sequestration of the real and personal estate of the defendant, or such part thereof as is deemed sufficient; or where any specific estate or effects are demanded by the complaint by causing possession of the property so demanded to be delivered to the plaintiff.

(2) Such possession shall not be delivered until the plaintiff gives security, in such sum as the court directs, to abide the order of the court touching the restitution of the estate or effects delivered, in case the defendant appears and is admitted to defend the suit.

(3) Upon like security being given, the court, when a sequestration has issued, may order the judgment to be satisfied out of the estate and effects sequestered; but if such security has not been given, the estate and effects sequestered shall remain under the direction of the court, to abide its further orders.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6093 Recovery of judgment against township, village, city, or county.

Sec. 6093. (1) Whenever judgment is recovered against any township, village, or city, or against the trustees or common council, or officers thereof, in any action prosecuted by or against them in their name of office, the clerk of the court shall, on the application of the party in whose favor judgment is rendered, his attorney, executor, administrator, or assigns, make and deliver to the party so applying a certified transcript of the judgment, showing the amount and date thereof, with the rate of interest thereon, and of the costs as taxed under the seal of the court, if in a court having a seal. The party obtaining the certified transcript may file it with the supervisor of the township, if the judgment is against the township, or with the assessing officer or officers of the city or village, if the judgment is against a city or village. The supervisor or assessing officer receiving the certified transcript or transcripts of judgment shall proceed to assess the amount thereof with the costs and interests from the date of rendition of judgment to the time when the warrant for the collection thereof will expire upon the taxable property of the township, city, or village upon the then next tax roll of such township, city, or village, without any other or further certificate than the certified transcript as a part of the township, city, or village tax, adding the total amount of the judgment to the other township, city, or village taxes and assessing it in the same column with the general township, city, or village tax.

The supervisor or assessing officer shall set forth in the warrant attached to the tax roll each judgment separately, stating the amount thereof and to whom payable, and it shall be collected and returned in the same manner as other taxes. The supervisor or assessing officer, at the time when he delivers the tax roll to the treasurer or collecting officer of any township, city, or village, shall deliver to the township clerk or to the clerk or recording officer of the city or village, a statement in writing under his hand, setting forth in detail and separately the judgment stating the amount with costs and interest as herein provided, and to whom payable. The treasurer or collecting officer of the township, city, or village, shall collect and pay the judgment to the owner thereof or his attorney, on or before the date when the tax roll and warrant shall be returnable. In case any supervisor, treasurer, or other assessing or collecting officer neglects or refuses to comply with any of the provisions of this section he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than \$1,000.00 and costs of prosecution, or imprisonment in the county jail for a period not exceeding 3 months, or by both fine and imprisonment in the discretion of the court. Nothing herein contained shall be construed to exclude other remedies given by law for the enforcement of the judgment.

(2) In any case where a judgment is recovered against a village which, by reason of holding no municipal elections, or for any other reason has no available assessing officer within the jurisdiction of the court wherein the judgment is rendered, the owner of the judgment or any person knowing the facts, acting on behalf of the owner, may make an affidavit showing that the village against which a judgment is pending and unsatisfied, has no available assessing officer within the jurisdiction, and file it with the clerk of the court wherein the judgment is written. The officer who makes the certified transcript shall attach thereto a copy of the affidavit, the correctness of which copy shall also be certified to in the certificate. Any party receiving the certified transcript of judgment and affidavit may file it with the supervisor of the township in which the village, having no assessing officer is located. The supervisor shall assess the amount of the judgment with costs and interest, upon the taxable property of the village, which is without an assessing officer, and thereafter the same steps and proceedings shall be had in the premises as though it were a judgment against the township within which the village is located, except that it shall be assessed against the property within the corporate limits of the village only.

(3) When judgment is recovered against any county or the board of supervisors or any county officer in an action prosecuted by or against him in his name of office, the judgment unless reversed shall be levied and collected as other county charges, and when collected shall be paid by the county treasurer to the person to

whom the judgment has been adjudged upon the delivery of a proper voucher therefor.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.6094 Recovery of judgment for damages against school district or intermediate school district.

Sec. 6094. (1) Subject to subsection (5), if a final judgment for damages is entered against a school district or an intermediate school district and is not removed to another court, the treasurer of the school district or intermediate school district shall certify to the supervisor of the township and assessing officer of the township or municipality in which the school district or intermediate school district is located and to the secretary of the school district or intermediate school district the date and amount of the judgment and the name of the person in whose favor it was entered. If the judgment is removed to another court, the treasurer shall certify it immediately after the final determination of the judgment against the school district or intermediate school district.

(2) Subject to subsection (5), if the treasurer fails to certify a judgment for damages as required by subsection (1), the person in whose favor the judgment was entered or the person's personal representative or assigns may file a certificate of the clerk of the court that entered the judgment that contains the information that should have been certified by the treasurer.

(3) If a school district or intermediate school district against which a judgment for damages is entered is located in 2 or more townships or municipalities, a certificate under this section shall be delivered as provided in this section to the supervisor of each township and assessing officer of each township or municipality in which part of the school district or intermediate school district is located.

(4) An assessing officer who receives a certificate of a judgment under this section shall proceed to assess the amount of the judgment, with interest from the date of the judgment to the time when the warrant for the collection of the judgment will expire, upon the taxable property of the school district or intermediate school district, placing it on the next township assessment roll in the column for school taxes. The amount of the judgment shall be collected and returned in the same manner as other taxes of the school district or intermediate school district.

(5) This section does not apply to any of the following:

(a) A judgment entered in an action to enforce a contract that the school district or intermediate school district was not authorized to enter into under the laws of this state.

(b) A judgment entered in an action to enforce a contract to which the school district or intermediate school district is a party that provides for payment of money to a person other than this state, a public employee retirement system established by this state, or a state authority, if both of the following apply:

(i) The school district or intermediate school district is subject to a consent agreement under section 8 of the local financial stability and choice act, 2012 PA 436, MCL 141.1548.

(ii) The consent agreement does not require the school district or intermediate school district to obtain the approval of the state treasurer before the treasurer of the school district or intermediate school district certifies a judgment under this section.

(c) A judgment entered in an action to enforce a contract to which the school district or intermediate school district is a party and to which all of the following apply:

(i) The contract provides for 1 or more payments by the school district to a person other than this state, a public employee retirement system established by this state, or a state authority.

(ii) The total amount of the payments required under the contract by the school district or intermediate school district is more than \$100,000.00.

(iii) The school district or intermediate school district failed to make a payment required under the contract to the person within 90 days after the date required under the contract.

(iv) Either of the following applies:

(A) Within the 90-day period under subparagraph (iii), the person entitled to the payment did not provide written notice to the board and superintendent of the school district or intermediate school district and the state treasurer of the school district's or intermediate school district's failure to make the required payment and the person's intent to stop providing goods or services under the contract.

(B) After sending a notice described in sub-subparagraph (A), the person did not stop providing goods or services under the contract at the earliest time allowable under the contract.

(6) The state treasurer shall transmit an electronic copy of each notice received under subsection (5)(c)(iv)(A) to the chairperson of the house education committee, the chairperson of the senate education committee, the chairperson of the house appropriations subcommittee on school aid, and the chairperson of the senate appropriations subcommittee on school aid.

(7) The state treasurer and the school district or intermediate school district shall post an electronic copy of

a notice sent under subsection (5)(c)(iv)(A) on the internet website of the department of treasury and of the school district or intermediate school district, respectively.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975;—Am. 2013, Act 185, Imd. Eff. Dec. 13, 2013.

600.6094a Judgment under MCL 600.6093 or 600.6094; limitation.

Sec. 6094a. A judgment entered against a governmental entity under section 6093 or 6094 that is assessed and collected as a tax under section 6093 or 6094, and any specific local tax attributable to the judgment, must not be attributed or transmitted to or retained or captured by any other governmental entity for any other purpose.

History: Add. 2016, Act 15, Imd. Eff. Feb. 16, 2016.

Compiler's note: Enacting section 1 of Act 15 of 2016 provides:

"Enacting section 1. This amendatory act applies retroactively to all judgments entered after May 6, 2015."

600.6095 Collection of judgment; against state institution.

Sec. 6095. When any judgment or decree is obtained against any corporate body, or unincorporated board, now or hereafter having charge or control of any state institution, the amount thereof shall be included and collected in the state tax and paid to the person entitled thereto.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.6096 Judgment or claim against department; payment from unencumbered appropriation; identifying information; application of amount to certain liabilities; order of priority; disclosure; definitions.

Sec. 6096. (1) Notwithstanding section 6458, on a judgment against this state or a department becoming final, or on allowance of a claim by the state administrative board, the director shall cause the judgment or claim to be paid from the unencumbered appropriation of the department if the director determines the unencumbered appropriation is sufficient for the payment.

(2) On a judgment described in subsection (1) becoming final or on a claim being allowed as described in subsection (1), the plaintiff or claimant shall provide to the department any information required by the director to identify the plaintiff or claimant or, if applicable, each individual for whose benefit the action was brought or the claim made, for purposes of complying with subsections (3) to (5). The department of treasury shall make available to departments an itemization of the information needed from a plaintiff or claimant to satisfy this subsection.

(3) When requesting payment of a judgment or allowed claim from the department of treasury, the director shall provide to the department of treasury the name of the plaintiff or claimant or, if applicable, the name of the individual for whose benefit the action was brought or claim made and the identifying information provided under subsection (2) in the manner prescribed by the department of treasury.

(4) The department of treasury shall not issue a warrant in satisfaction of a judgment or claim until the department of treasury determines whether the plaintiff or claimant or, if applicable, the individual for whose benefit the action was brought or claim made has a liability described in subsection (5). If the department of treasury identifies a liability described in subsection (5), the department of treasury shall first apply the amount of the judgment or claim as provided in subsection (5), and the excess, if any, shall be paid to satisfy the judgment or claim.

(5) The amount of a judgment or claim described in subsection (4) must be applied to the following in the following order of priority:

(a) Any known tax liability to this state.

(b) Any other known liability to this state.

(c) Any of the following in the order of priority received, unless otherwise provided by law:

(i) A support liability.

(ii) An order of restitution.

(iii) A writ of garnishment or other court order directed to this state or the state treasurer.

(iv) A levy of the Internal Revenue Service.

(v) A liability to repay benefits obtained under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(6) Subsections (2) and (3) apply to all judgments and claims, notwithstanding any order in an action that prohibits disclosure of the name of a plaintiff, claimant, or individual for whose benefit the action was brought or claim was made. If such a protective order exists, the director shall notify the department of treasury of the order when providing the name of the plaintiff, claimant, or individual under subsection (3), and the name and identifying information of the plaintiff, claimant, or individual is exempt from disclosure

under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) as used in this section:

(a) "Department" means a principal department, as that term is used in section 3 of article V of the state constitution of 1963, against which a final judgment or allowable claim is rendered as provided in this section, or a commission, board, institution, arm, or agency of this state that is located within a principal department against which a final judgment or allowable claim is rendered as provided in this section.

(b) "Director" means the head of the department or the head of the department's designee.

(c) "Support" means that term as defined in section 2a of the friend of the court act, 1982 PA 294, MCL 552.502a.

History: Add. 2015, Act 257, Eff. Mar. 22, 2016.

Compiler's note: Former MCL 600.6096, which pertained to township judgment bonds, was repealed by Act 393 of 1984, Imd Eff. Dec. 28, 1984.

600.6097 Judgment against municipality; issuance of certificates of indebtedness or bonds to pay judgment; amount; interest; sale; duration; bonds not subject to MCL 117.5; "municipality" defined.

Sec. 6097. (1) If a judgment of a court or administrative agency is rendered against any municipality, the legislative body of that municipality, unless otherwise provided, may issue certificates of indebtedness or bonds of that municipality for the purpose of raising money to pay the judgment, in an amount not exceeding the sum of the judgment, the costs and interest on the judgment, and all cost in connection with issuing the certificates of indebtedness or bonds. The certificates of indebtedness or bonds shall be sold and issued in accordance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that they may be issued for a period of up to 15 years.

(2) The authorization, issuance, and selling of the bonds are not subject to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5.

(3) As used in this section, "municipality" means a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district established under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, or another governmental authority or agency in this state which has the power to levy ad valorem property taxes.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 393, Imd. Eff. Dec. 28, 1984;—Am. 2002, Act 224, Imd. Eff. Apr. 29, 2002.

600.6098 Review of verdict in action alleging medical malpractice or personal injury action; duties of judge; reinstatement of original verdict; affirming orders and judgments granting additur or remittitur.

Sec. 6098. (1) A judge presiding over an action alleging medical malpractice shall review each verdict to determine if the limitation on noneconomic damages provided for in section 1483 applies. If the limitation applies, the court shall set aside any amount of noneconomic damages in excess of the amount specified in section 1483.

(2) A judge presiding over a personal injury action shall review each verdict returned by the jury and shall do 1 of the following:

(a) Concur with the award.

(b) Upon motion by any party, within 21 days of entry of the judgment of the court, grant a new trial to all or some of the parties, on all or some issues, whenever their substantial rights are materially affected, for any of the following reasons:

(i) Irregularity in the proceedings of the court, jury, or prevailing party.

(ii) An order of the court or abuse of discretion which denied the moving party a fair trial.

(iii) Misconduct of the jury or the prevailing party.

(iv) Excessive or inadequate damages appearing to have been influenced by passion or prejudice.

(v) A verdict clearly or grossly inadequate or excessive.

(vi) A verdict or decision against the great weight of the evidence or contrary to law.

(vii) Material evidence, newly discovered, which could not with reasonable diligence have been discovered and produced at trial.

(viii) Error of law occurring in the proceedings or mistake of fact by the court.

(ix) Other grounds as may be provided for by court rule.

(c) Within 21 days after entry of a judgment, the court on its own initiative may order a new trial for any of the reasons set forth in subdivision (b). The order shall specify the grounds on which the order is based.

(d) If the court finds that the only error in the trial is the inadequacy or excessiveness of the verdict, the

court may grant a new trial unless, within 14 days, the nonmoving party consents in writing to the entry of judgment in an amount found by the court to be the lowest or highest amount the evidence will support.

(3) If the moving party appeals, the written consent entered under subsection (2)(d) in no way prejudices the nonmoving party's argument on appeal that the original verdict was correct. If the nonmoving party prevails on appeal, the original verdict may be reinstated by the appellate court.

(4) All orders and judgments of the circuit court granting additur or remittitur shall be affirmed on appeal unless the trial judge committed an abuse of discretion.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”