

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

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.