

Revised Statutes of 1846 (EXCERPT)

R.S. of 1846

CHAPTER 66

Chapter 66. Of estates in dower, by the curtesy, and general provisions concerning real estate.

ESTATES IN DOWER

558.1 Right of widow to dower.

Sec. 1. The widow of every deceased person, shall be entitled to dower, or the use during her natural life, of 1/3 part of all the lands whereof her husband was seized of an estate of inheritance, at any time during the marriage, unless she is lawfully barred thereof.

History: R.S. 1846, Ch. 66;—CL 1857, 2772;—CL 1871, 4269;—How. 5733;—CL 1897, 8918;—CL 1915, 11654;—CL 1929, 13072;—CL 1948, 558.1.

558.2 Dower in lands exchanged; election.

Sec. 2. If a husband seized of an estate of inheritance in lands, exchange them for other lands, his widow shall not have dower of both, but shall make her election to be endowed of the lands given, or of those taken in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange, within 1 year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange.

History: R.S. 1846, Ch. 66;—CL 1857, 2773;—CL 1871, 4270;—How. 5734;—CL 1897, 8919;—CL 1915, 11655;—CL 1929, 13073;—CL 1948, 558.2.

558.3 Dower in mortgaged lands; mortgage before marriage.

Sec. 3. When a person seized of an estate of inheritance in lands, shall have executed a mortgage of such estate before marriage, his widow shall be entitled to a dower out of the lands mortgaged, as against every person except the mortgagee and those claiming under him.

History: R.S. 1846, Ch. 66;—CL 1857, 2774;—CL 1871, 4271;—How. 5735;—CL 1897, 8920;—CL 1915, 11656;—CL 1929, 13074;—CL 1948, 558.3.

558.4 Dower in mortgaged lands; purchase money mortgage given after marriage.

Sec. 4. When a husband shall purchase lands during coverture, and shall at the same time mortgage his estate in such lands to secure the payment of the purchase money, his widow shall not be entitled to dower out of such lands, as against the mortgagee or those claiming under him, although she shall not have united in such mortgage, but she shall be entitled to her dower as against all other persons.

History: R.S. 1846, Ch. 66;—CL 1857, 2775;—CL 1871, 4272;—How. 5736;—CL 1897, 8921;—CL 1915, 11657;—CL 1929, 13075;—CL 1948, 558.4.

558.5 Dower in surplus of proceeds from foreclosure of mortgage.

Sec. 5. Where in either of the cases mentioned in the 2 last preceding sections, or in case of a mortgage in which she shall have joined with her husband, the mortgagee, or those claiming under him shall after the death of the husband cause the mortgaged premises to be sold by virtue of such mortgage, and any surplus shall remain after payment of the moneys due thereon and the costs and charges of the sale, such widow shall be entitled to the interest or income of 1/3 part of such surplus, for her life, as dower.

History: R.S. 1846, Ch. 66;—CL 1857, 2776;—CL 1871, 4273;—How. 5737;—CL 1897, 8922;—CL 1915, 11658;—CL 1929, 13076;—CL 1948, 558.5.

558.6 Dower in lands released by payment of mortgage.

Sec. 6. If, in either of the cases above specified, the heir or other person claiming under the husband, shall pay and satisfy the mortgage, the amount so paid shall be deducted from the value of the land, and the widow shall have set out to her, for her dower in the mortgaged lands, the value of 1/3 of the residue after such deduction.

History: R.S. 1846, Ch. 66;—CL 1857, 2777;—CL 1871, 4274;—How. 5738;—CL 1897, 8923;—CL 1915, 11659;—CL 1929, 13077;—CL 1948, 558.6.

558.7 Dower in aliened lands; estimation.

Sec. 7. When a widow shall be entitled to dower out of any lands which shall have been aliened by the husband in his lifetime, and such lands shall have been enhanced in value after the alienation, such lands shall

be estimated, in setting out the widow's dower, according to their value at the time when they were so aliened.

History: R.S. 1846, Ch. 66;—CL 1857, 2778;—CL 1871, 4275;—How. 5739;—CL 1897, 8924;—CL 1915, 11660;—CL 1929, 13078;—CL 1948, 558.7.

558.12 Alternative dower rights before assignment; occupation, profits and rents receipts.

Sec. 12. When a widow is entitled to dower in the lands of which her husband died seized, she may continue to occupy the same with the children or other heirs of the deceased, or may receive 1/3 part of the rents, issues and profits thereof, so long as the heirs or others interested do not object, without having the dower assigned.

History: R.S. 1846, Ch. 66;—CL 1857, 2783;—CL 1871, 4280;—How. 5744;—CL 1897, 8929;—CL 1915, 11661;—CL 1929, 13079;—CL 1948, 558.12.

558.13 Barring of dower; joining in conveyance, release.

Sec. 13. A married woman residing within this state may bar her right of dower in any estate conveyed by her husband or by his guardian, if he be under guardianship, by joining in the deed of conveyance and acknowledging the same as prescribed in the preceding chapter, or by joining with her husband in a subsequent deed, acknowledged in like manner; or by deed executed by the wife alone to one who has theretofore acquired and then holds the husband's title, provided the intent to bar her right of dower shall be expressed in said deed.

History: R.S. 1846, Ch. 66;—Am. 1849, Act 67, Imd. Eff. Mar. 6, 1849;—CL 1857, 2784;—CL 1871, 4281;—Am. 1877, Act 65, Eff. Aug. 21, 1877;—How. 5745;—CL 1897, 8930;—CL 1915, 11662;—CL 1929, 13080;—CL 1948, 558.13.

Compiler's note: For provisions of the "preceding chapter" referred to in this section, see MCL 565.1 et seq.

558.14 Barring of dower; jointure.

Sec. 14. A woman may also be barred of her dower in all the lands of her husband by a jointure settled on her with her assent before the marriage, provided such jointure consists of a freehold estate in lands for the life of the wife at least, to take effect in possession or profit immediately on the death of the husband.

History: R.S. 1846, Ch. 66;—CL 1857, 2785;—CL 1871, 4282;—How. 5746;—CL 1897, 8931;—CL 1915, 11663;—CL 1929, 13081;—CL 1948, 558.14.

558.15 Barring of dower; expression of assent to jointure.

Sec. 15. Such assent shall be expressed, if the woman be of full age, by her becoming a party to the conveyance by which it is settled, and if she be under age, by her joining with her father or guardian in such conveyance.

History: R.S. 1846, Ch. 66;—CL 1857, 2786;—CL 1871, 4283;—How. 5747;—CL 1897, 8932;—CL 1915, 11664;—CL 1929, 13082;—CL 1948, 558.15.

558.16 Barring of dower; antenuptial pecuniary provisions.

Sec. 16. Any pecuniary provision that shall be made for the benefit of an intended wife, and in lieu of dower, shall, if assented to as provided in the preceding section, bar her right of dower in all the lands of her husband.

History: R.S. 1846, Ch. 66;—CL 1857, 2787;—CL 1871, 4284;—How. 5748;—CL 1897, 8933;—CL 1915, 11665;—CL 1929, 13083;—CL 1948, 558.16.

558.20 Renewal of dower.

Sec. 20. If a woman is lawfully evicted of lands assigned to her as dower, or settled upon her as jointure or is deprived of the provision made for her by will or otherwise, in lieu of dower, she may be endowed anew, in like manner as if such assignment, jointure or other provision had not been made.

History: R.S. 1846, Ch. 66;—CL 1857, 2791;—CL 1871, 4288;—How. 5752;—CL 1897, 8937;—CL 1915, 11669;—CL 1929, 13087;—CL 1948, 558.20.

558.21 Dower right of aliens and nonresidents.

Sec. 21. A woman being an alien, shall not on that account be barred of her dower, and any woman residing out of the state, shall be entitled to dower of the lands of her deceased husband, lying in this state, of which her husband died seized, and the same may be assigned to her, or recovered by her, in like manner as if she and her deceased husband had been residents within the state at the time of his death.

History: R.S. 1846, Ch. 66;—CL 1857, 2792;—CL 1871, 4289;—How. 5753;—CL 1897, 8938;—CL 1915, 11670;—CL 1929, 13088;—CL 1948, 558.21.

558.22 Waste liability; maintenance of tenements and appurtenances.

Sec. 22. No woman, who shall be endowed of any lands, shall commit or suffer any waste on the same, but every woman so endowed shall maintain the houses and tenements, with the fences and appurtenances in good repair, and shall be liable to the person having the next immediate estate of inheritance therein, for all damages occasioned by any waste committed or suffered by her.

History: R.S. 1846, Ch. 66;—CL 1857, 2793;—CL 1871, 4290;—How. 5754;—CL 1897, 8939;—CL 1915, 11671;—CL 1929, 13089;—CL 1948, 558.22.

558.24 Damages upon recovery of dower; widow's rights.

Sec. 24. Whenever in any action brought for the purpose, a widow shall recover her dower in lands of which her husband shall have died seized, she shall be entitled also to recover damages for the withholding of such dower.

History: R.S. 1846, Ch. 66;—CL 1857, 2795;—CL 1871, 4292;—How. 5756;—CL 1897, 8941;—CL 1915, 11673;—CL 1929, 13091;—CL 1948, 558.24.

558.25 Damages upon recovery of dower; measure.

Sec. 25. Such damages shall be 1/3 part of the annual value of the mesne profits of the lands in which she shall so recover her dower, to be estimated in a suit against the heirs of her husband, from the time of his death; and in suits against other persons from the time of her demanding her dower of such persons.

History: R.S. 1846, Ch. 66;—CL 1857, 2796;—CL 1871, 4293;—How. 5757;—CL 1897, 8942;—CL 1915, 11674;—CL 1929, 13092;—CL 1948, 558.25.

558.26 Damages upon recovery of dower; use of added improvements.

Sec. 26. Such damages shall not be estimated for the use of any permanent improvements made after the death of her husband by his heirs, or by any other person claiming title to such lands.

History: R.S. 1846, Ch. 66;—CL 1857, 2797;—CL 1871, 4294;—How. 5758;—CL 1897, 8943;—CL 1915, 11675;—CL 1929, 13093;—CL 1948, 558.26.

558.27 Damages upon recovery of dower; against heir alienating land.

Sec. 27. When a widow shall recover her dower in any lands alienated by the heir of her husband, she shall be entitled to recover of such heir, in an action on the case, her damages for withholding such dower, from the time of the death of her husband to the time of the alienation by the heir not exceeding 6 years in the whole; and the amount which she shall be entitled to recover from such heir, shall be deducted from the amount she would otherwise be entitled to recover from such grantee, and any amount recovered as damages, from such grantee, shall be deducted from the sum she would otherwise be entitled to recover from such heir.

History: R.S. 1846, Ch. 66;—CL 1857, 2798;—CL 1871, 4295;—How. 5759;—CL 1897, 8944;—CL 1915, 11676;—CL 1929, 13094;—CL 1948, 558.27.

558.28 Assignment of dower; effect of acceptance.

Sec. 28. When the widow shall have accepted an assignment of dower, in satisfaction of her claim upon all the lands of her husband, it shall be a bar to any further claim of dower against the heir of such husband, or any grantee of such heir, or any grantee of such husband, unless such widow shall have been lawfully evicted of the lands so assigned to her as aforesaid.

History: R.S. 1846, Ch. 66;—CL 1857, 2799;—CL 1871, 4296;—How. 5760;—CL 1897, 8945;—CL 1915, 11677;—CL 1929, 13095;—CL 1948, 558.28.

558.29 Collusive recovery by widow; effect on rights of infants or others entitled to land.

Sec. 29. When a widow not having right to dower, shall during the infancy of the heirs of the husband, or any of them, or of any person entitled to the lands, recover dower by the default or collusion of the guardian of such infant, heir or other person, such heir or other person so entitled shall not be prejudiced thereby, but when he comes of full age, he shall have an action against such widow, to recover the lands so wrongfully awarded for dower.

History: R.S. 1846, Ch. 66;—CL 1857, 2800;—CL 1871, 4297;—How. 5761;—CL 1897, 8946;—CL 1915, 11678;—CL 1929, 13096;—CL 1948, 558.29.

558.30 Wife's dower right; abolishment and enforcement; exceptions.

Sec. 30. (1) Notwithstanding sections 1 to 29, and except as otherwise provided in subsection (2), a wife's dower right is abolished and unenforceable either through statute or at common law.

(2) This section does not apply to either of the following:

(a) A widow's dower elected by a woman whose husband died before the effective date of the amendatory act that added this section.

(b) If a widow's husband died before the effective date of the amendatory act that added this section, the widow's right to elect dower under section 2202 of the estates and protected individuals code, 1998 PA 386, MCL 700.2202.

History: Add. 2016, Act 489, Eff. Apr. 6, 2017.