

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

CHAPTER 61
PROCEEDINGS SUPPLEMENTARY TO JUDGMENT

600.6101 Proceedings supplementary to judgment.

Sec. 6101. A proceeding under this chapter may be maintained until the judgment is satisfied, vacated, or barred by the statute of limitations.

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

600.6104 Powers of judge after rendition of judgment for money.

Sec. 6104. After judgment for money has been rendered in an action in any court of this state, the judge may, on motion in that action or in a subsequent proceeding:

(1) Compel a discovery of any property or things in action belonging to a judgment debtor, and of any property, money, or things in action due to him, or held in trust for him;

(2) Prevent the transfer of any property, money, or things in action, or the payment or delivery thereof to the judgment debtor;

(3) Order the satisfaction of the judgment out of property, money, or other things in action, liquidated or unliquidated, not exempt from execution;

(4) Appoint a receiver of any property the judgment debtor has or may thereafter acquire; and

(5) Make any order as within his discretion seems appropriate in regard to carrying out the full intent and purpose of these provisions to subject any nonexempt assets of any judgment debtor to the satisfaction of any judgment against the judgment debtor.

The court may permit the proceedings under this chapter to be taken although execution may not issue and other proceedings may not be taken for the enforcement of the judgment. It is not necessary that execution be returned unsatisfied before proceedings under this chapter are commenced.

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

600.6107 Installment payments from income; reasonable value of services to relative; earning ability; modification of order; moneys awarded in matrimonial action; statute of limitations.

Sec. 6107. (1) Whether or not the judgment creditor has resorted to any remedy available under the garnishment or execution statutes, the court may order the judgment debtor to pay to the judgment creditor or apply on the judgment, in installments, such portion of his income, however or whenever earned or acquired, as the court may deem proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the judgment debtor under any legal process.

(2) Where the judgment debtor claims or is proved to be rendering services to or employed by a relative or other person or by a corporation owned or controlled by a relative or other person, without salary or compensation, or at a salary or compensation so inadequate as to satisfy the court that such salary or compensation is merely colorable and designed to defraud or impede the creditors of such debtor, the court may direct such debtor to make payments on account of the judgment, in installments, based upon a reasonable value of the services rendered by such judgment debtor under his said employment or upon said debtor's then earning ability.

(3) The court may, from time to time, modify an order made under this section upon application of either party upon notice to the other.

(4) An order under this section, where the income sought to be reached consists in whole or in part of moneys awarded in a matrimonial action for the support of the judgment debtor by a court of this state, may be made only by such court. To enable the judgment creditor to apply for such an order, a proceeding under this chapter instituted in another court may be transferred to such court on order of such other court, without prejudice to the proceedings theretofore taken therein.

(5) The statute of limitations shall not run against a judgment during the time it is payable in installments as provided in this section.

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

600.6110 Subpoena requiring appearance of judgment debtor or person having money or property of judgment debtor; affidavit; examination; adjournment; immunity.

Sec. 6110. (1) Upon an affidavit, showing to the satisfaction of the judge that any person has money or property of the judgment debtor, or is indebted to him, the judge may issue a subpoena requiring the judgment debtor or the person or both to appear at a specified time and place, and be examined on oath, and to produce for examination any books, papers, or records in his or its possession or control which have or may contain information concerning the property or income of the debtor.

(2) A corporation shall attend by and answer under the oath of an officer thereof, and the judge may, in his discretion, specify the officer. Either party may be examined as a witness in his own behalf, and may produce and examine other witnesses as upon the trial of an action. The judge may adjourn any proceedings under this chapter from time to time as he thinks proper.

(3) A party or witness examined under these provisions may not be excused from answering a question on the ground that his answer will tend to show him guilty of the commission of a fraud, or prove that he has been a party or privy to, or knowing of a conveyance, assignment, transfer, or other disposition of property for any purpose, or that he or another person claims to have title as against the judgment debtor or to hold property derived from or through the judgment debtor, or to be discharged from the payment of a debt which was due to the judgment debtor or to a person in his behalf. But an answer cannot be used as evidence against the person so answering in any criminal proceeding or action, except for perjury in making the answer.

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

600.6113 Special proceedings; hearings; attendance, mileage, and expenses of judgment debtor.

Sec. 6113. (1) Proceedings under this chapter are special proceedings, and shall be heard by the judge without a jury, except as provided in subsection (3) of section 6128. Hearings may be held in chambers.

(2) A judgment debtor may be required to attend outside the county where he resides but the court may make such order as to mileage and expenses as is just.

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

600.6116 Transfer of debtor's property; duration of restraint.

Sec. 6116. (1) An order for examination of a judgment debtor may contain a provision restraining the judgment debtor from making or suffering any transfer or other disposition of, or interference with any of his property then held or thereafter acquired by or becoming due to him not exempt by law from application to the satisfaction of the judgment, until further direction in the premises, and such other provisions as the court may deem proper.

(2) Unless previously vacated by order of the court or by stipulation of the parties in writing, a restraining provision as herein provided shall remain in full force and effect for a period of 2 years from the date thereof, at which time it shall be deemed vacated for all purposes unless extended by order of the court for good cause shown.

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

600.6119 Transfer of property by third party; prohibition; violation; contempt; liability; transfer of property apparently belonging to others; duration of restraint.

Sec. 6119. (1) When a third party having in his or its possession property or moneys belonging to the judgment debtor or who is indebted to the judgment debtor is subpoenaed or ordered to attend and be examined as authorized in this chapter, such third party is hereby forbidden to make or suffer any transfer or other disposition of, or to interfere with, any property belonging to the judgment debtor or to which he may be entitled or which may thereafter be acquired by or become due to said judgment debtor, or to pay over or otherwise dispose of any moneys due or to become due to such judgment debtor, not exempt by law from application to the satisfaction of the judgment, until the further order of the court except that such third party is not obliged to withhold the payment of any moneys beyond double the amount claimed in such subpoena by the judgment creditor. To effect such restraining provision, a copy of this section must be indorsed on or attached to the copy of the subpoena or order served on the third party.

(2) Any person served with said subpoena or order, who violates the provisions of such restraining provision, is subject to punishment by the court for contempt, and is liable to the judgment creditor for any damages sustained.

(3) The restraining effect of a subpoena served upon a third party shall not, however, apply to any property, money or indebtedness which appears from the books or records of the third party to belong to or to be due to a person or corporation other than the judgment debtor, unless the third party has knowledge or reason to believe that such property, money or indebtedness belongs to or is due to the judgment debtor; but the court may by order at any stage of the proceeding grant a restraining provision applicable to any such

property, money or indebtedness, which is specified in the order, where it is shown to the court's satisfaction by affidavit or other written proof that there is reason to believe that such property, money or indebtedness belongs to or is due to the judgment debtor.

(4) Unless previously vacated by order of the court or unless released in writing filed in the cause by the judgment creditor, a restraining provision as herein provided shall remain in full force and effect for a period of 2 years from the date of the service of the subpoena, at which time it is deemed vacated for all purposes unless extended by order of the court for good cause shown.

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

600.6122 Transfer of property by third party; rights of judgment creditor; negotiable instruments.

Sec. 6122. (1) Every transfer by the judgment debtor by assignment or otherwise of any property held by, or debt due from a third party upon whom there has previously been served an order or subpoena containing an injunction as provided in section 6119, is subject to such rights and remedies as the judgment creditor would have had if such transfer had not been made, unless the transferee is a bona fide purchaser for value and without notice, in which case the judgment creditor shall have such rights and remedies in the property only if the value paid is returned to the bona fide purchaser.

(2) The foregoing provisions of (1) do not apply to:

(a) A transfer of a debt evidenced by a negotiable instrument which has been transferred to a transferee in good faith and for value, or

(b) Transfer of property which has been delivered, or for which a negotiable warehouse receipt, negotiable bill of lading or other negotiable document of title has been delivered, to a transferee in good faith and for value.

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

600.6125 Injunction; vacation; bond.

Sec. 6125. Any person restrained by any injunction under this chapter from transferring or disposing of any property or paying any moneys or indebtedness, may move to vacate the injunction. The court shall vacate the injunction if the person gives bond with sureties approved by the court, the bond containing conditions specified by the court including:

(1) An undertaking to pay the judgment and costs of the proceeding if the judgment creditor or receiver is successful; or

(2) An undertaking in the sum equal to the value of the property or moneys to be released from restraint, to be paid to the judgment creditor or receiver if they are successful.

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

600.6128 Trying title to debt or property; third party claimant; jury.

Sec. 6128. (1) Where it appears to the court that:

(a) The judgment debtor may have an interest in or title to any real property, and such interest or title is disclaimed by the judgment debtor or disputed by another person;

(b) The judgment debtor may own or have a right of possession to any personal property, and such ownership or right of possession is substantially disputed by another person; or

(c) A third party is indebted to the judgment debtor, and the obligation of the third party to pay the judgment debtor is disputed; the court may, if the person or persons claiming adversely is a party to the proceeding, adjudicate the respective interests of the parties in such debt or real or personal property, and may determine such property to be wholly or in part the property of the judgment debtor, or that the debt is owed the judgment debtor.

(2) If the person claiming adversely to the judgment debtor is not a party to the proceeding, the court shall by show cause order or otherwise cause such person to be brought in and made a party thereto, and shall set such proceeding for early hearing.

(3) Any person so made a party, or any party to the original proceeding, may have such issue determined by a jury upon demand therefor and payment of a jury fee as in other civil actions if such person would be entitled to a jury trial if the matter was adjudicated in a separate action.

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

600.6131 Prima facie case; burden of proof; proceedings before sale on execution; transfer of property within 1 year prior to commencement of action.

Sec. 6131. (1) The complainant shall make a prima facie case by introducing in evidence the judgment

against the principal defendant and proof of the conveyance complained of. The burden of proof is then on the judgment debtor, the person claiming through him, or the person whom it is claimed holds the property in trust for him, to show that the transaction is in all respects bona fide or that the person is not holding as trustee of the judgment debtor.

(2) In case of a levy on the equitable interest of a judgment debtor, the judgment creditor, may, before the sale on execution, institute proceedings under this chapter to ascertain and determine the rights and equities of the judgment debtor in the property levied on. Where no such proceedings are instituted prior to the sale on execution, they must be instituted within 1 year thereafter.

(3) Where it appears that the judgment debtor at a time within 1 year prior to the date of the commencement of the action in which the judgment is entered has had title to or has paid the purchase price of any real or personal property to which at the time of the examination his wife, or a relative or a person on confidential terms with the judgment debtor may claim title or right of possession, the burden of proof shall be upon the judgment debtor, or person claiming title or right of possession, to establish that the transfer or gift from him was not made for the purpose of delaying, hindering, and defrauding creditors.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1973, Act 96, Imd. Eff. Aug. 8, 1973.

600.6134 Fraudulent transfers.

Sec. 6134. For the purposes of this chapter a person is deemed to be indebted to the judgment debtor, although any debt in question has been assigned, charged or encumbered by the judgment debtor, if the assignment, charge or encumbrance is fraudulent as against creditors or is otherwise voidable.

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

600.6137 Payment by debtor of judgment debtor.

Sec. 6137. Any person indebted to a judgment debtor may pay to the clerk of the court the amount of his debt, or so much thereof as is necessary to satisfy the judgment and costs. The receipt of the clerk is a discharge of the indebtedness of such person to the judgment debtor to the extent of the amount so paid. The clerk shall apply such amount to the satisfaction of the judgment and costs, and any surplus shall be paid to the judgment debtor.

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

600.6140 Orders affecting alienability of land; recording.

Sec. 6140. Any order under this chapter which affects or may limit the alienability of real property, or a certified copy thereof, may be filed for record in the office of the register of deeds of the county in which such real property is situated together with a description of the real property involved. The register of deeds shall record such notice as if filed under Chapter 27 and it shall have the same effect.

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

600.6143 Scope of chapter.

Sec. 6143. This chapter is in addition to and does not affect enforcement of judgments or proceedings supplementary thereto, by any other methods now or hereafter provided by law.

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