

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

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.