

they are taken, as required in section 1 of this act, shall be non-negotiable, and subject to all the defenses in the hands of an innocent holder that the same would have been if not transferred.

**Conflicting laws repealed.** SECTION 4. All acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

SECTION 5. This act shall take effect and be in force, from and after its passage and publication.

Approved May 2, 1901.

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No. 366, A.]

[Published May 6, 1901.

## CHAPTER 269.

AN ACT to amend sections 2983 and 2984 of the statutes of 1898, and to add a new section to said statutes to be known as 2984a.

*The people of the state of Wisconsin represented in senate and assembly do enact as follows:*

**Homestead exemption.** SECTION 1. Section 2983 of the statutes of 1898, is hereby amended so as to read as follows: Section 2983. A homestead to be selected by the owner thereof consisting, when not included in any city or village, of any quantity of land, not exceeding forty acres, used for agricultural purposes, and when included in any city or village of any quantity of land not exceeding one-fourth of an acre and the dwelling house thereon and its appurtenances owned and occupied by any resident of this state shall be exempt from seizure or sale on execution, from the lien of every judgment and from liability in any form for the debts of such owner to the amount in value of five thousand dollars, except laborers', mechanics' and purchase money liens and mortgages lawfully executed, and taxes lawfully assessed and except as otherwise provided in these statutes, and such exemption shall not be impaired by temporary removal with the intention to reoccupy the same as a homestead nor by the sale thereof, but shall extend to the proceeds derived from such sale to an amount not exceeding five thousand dollars, while held, with the intention to procure another homestead therewith,

for a period not exceeding two years. Such exemption shall extend to land not exceeding altogether the amount and value aforesaid, owned by a husband and wife jointly or in common and to the interest therein of a tenant in common or two or more tenants in common, having a homestead thereon, with the consent, expressed or implied, of the co-tenants, and to any estate less than a fee held by any person by lease, contract or otherwise.

**Homestead, how set apart after levy.** SECTION 2. Section 2984 of the statutes of 1898 is hereby amended so as to read, when amended, as follows: Section 2984. Whenever a levy shall be made upon the lands of any person, such person may notify the officer making such levy, at any time before the sale thereof, that he claimed a homestead in such lands, giving a description thereof, and his estimate of the value thereof, and the remainder alone shall be subject to sale under such levy, unless the plaintiff in the execution shall deny the right to such homestead or be dissatisfied with the quantity or estimate of the value of the land so selected. If such plaintiff in the execution is dissatisfied with the quantity selected or the estimate of the value thereof, the officer making the levy shall cause such lands to be surveyed, beginning at a point to be designated by the owner and set off in compact form, including the dwelling house and appurtenances, the amount specified in the preceding section, provided however that the owner of said land may have any quantity of land less than the amount exempted as a homestead under the provisions of the preceding section, set off by such survey so as to bring the value of the premises so claimed as a homestead, to a value not exceeding the sum of five thousand dollars. After the lands are so surveyed and set off, if in the opinion of the plaintiff in the execution, the same shall be of greater value than the sum of five thousand dollars, the officer may still proceed to advertise and sell the said premises so set off, and out of the proceeds of such sale to pay to the homestead claimant the sum of five thousand dollars and apply the balance of the proceeds of such sale on the execution; provided however that no sale shall be made in the case last mentioned unless a greater sum than five thousand dollars shall be bid for said premises. The expenses of such survey and sale shall be collected on the execution, if it shall appear that the owner claimed as his homestead a greater quantity of land or land of greater value than he was entitled to; otherwise such expenses shall be borne by the person directing the same. If such survey be made the remainder not included in such survey, shall be subject to sale under such levy, but if any person shall neglect or refuse to select his homestead and notify such officer as aforesaid, such officer

shall, upon request of the plaintiff in the execution, and may without such request, give notice to such person that at a time and place to be therein named he will proceed to survey and locate the same; and unless such person shall on or before the time so fixed select such homestead, such officer shall proceed to survey and locate the same and set the same off in a compact form, including the dwelling house and its appurtenances, but in such case he shall not set off as a homestead a quantity of land less in area than is provided for in the preceding section. If the owner after such notice, proceeds to select his homestead, then the provisions of this act shall apply the same as if he had selected it before such notice. A homestead so selected and set apart by such officer shall be taken and considered to be the homestead of such person to all intents and purposes subject to the limitation as to value as hereinbefore stated. The costs of such notice and survey shall be collected upon the execution. A failure of the officer to set apart such homestead shall not invalidate or affect such levy, except as to such homestead, nor shall the failure, neglect or refusal of such person to select his homestead forfeit or impair his right thereto, but only his right to select the same when such selection shall be lawfully made by such officer in the manner hereinbefore provided. After such homestead is thus set off by such officer, if in his opinion or in the opinion of the plaintiff in the execution, the premises are of greater value than the sum of five thousand dollars he may proceed to sell the same as provided herein where the owner makes his own selection. If the land claimed as a homestead by any person does not exceed in area the quantity provided by law but does exceed in value the sum of five thousand dollars, the officer levying thereon shall not be bound to set off any portion thereof as a homestead of the debtor but may sell the same as hereinbefore provided, unless the debtor shall make his selection of such a portion thereof as shall not exceed in value the sum of five thousand dollars.

**"Homestead" defined.** SECTION 3. There shall be added to the statutes of 1898 a new section to be known as section 2984a which shall be and read as follows: Section 2984a. Wherever the word homestead is used in the statutes of 1898 or in any law of this state or in this act, it shall be defined to be the estate or interest in land as defined and set forth in section 1 of this act.

SECTION 4. This act shall take effect and be in force, from and after its passage and publication.

Approved May 2, 1901.