

No. 136, S.]

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CHAPTER 248

AN ACT to amend 272.20, 272.21 (2), (4) and (5) and 990.01 (13) (b) and (14) of the statutes, relating to homesteads and homestead exemptions.

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

SECTION 1. 272.20 of the statutes is amended to read:

272.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a resident owner and occupied by him shall be exempt from execution,

from the lien of every judgment and from liability for the debts of such owner to the amount of * * * \$10,000, except mortgages, laborers', mechanics' and purchase money liens and taxes and except as otherwise provided. Such exemption shall not be impaired by temporary removal with the intention to reoccupy the premises as a homestead nor by the sale thereof, but shall extend to the proceeds derived from such sale to an amount not exceeding * * * \$10,000, while held, with the intention to procure another homestead therewith, for 2 years. Such exemption extends to land owned by husband and wife jointly or in common, and when they reside in the same household may be claimed by either or may be divided in any proportion between them, but in no event shall the exemption exceed * * * \$10,000 for such household. In the event the husband and wife fail to agree on the division of exemption, the exemption shall be divided between them by the court in which the first judgment was taken. Such exemption extends to the interest therein of tenants in common, having a homestead thereon with the consent of the cotenants, and to any estate less than a fee.

(2) Any owner of an exempt homestead against whom a judgment has been rendered and docketed, and any heir, devisee or grantee of such owner, or any mortgagee of such homestead, may proceed under s. 269.56 for declaratory relief if such homestead is less than * * * \$10,000 in value and the owner of such judgment shall fail, for 10 days after demand, to execute a recordable release of such homestead from his judgment lien.

SECTION 2. 272.21 (2), (4) and (5) of the statutes are amended to read:

272.21 (2) If such plaintiff is dissatisfied with the quantity selected or the estimate of the value thereof, the officer shall cause such lands to be surveyed, beginning at a point to be designated by the owner and set off in compact form. After the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be of greater value than * * * \$10,000, the officer may still advertise and sell the premises so set off, and out of the proceeds of such sale pay to the exempt homestead claimant the sum of * * * \$10,000 and apply the balance of the proceeds of such sale on the execution; but no sale shall be made in the case last mentioned unless a greater sum than * * * \$10,000 is paid for said premises. The expenses of such survey and sale shall be collected on the execution if 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 plaintiff.

(4) A homestead so selected and set apart by such officer shall be the exempt homestead of such person. The costs of such notice and survey shall be collected upon the execution. A failure of the officer to set apart such homestead shall affect such levy, only as to such homestead; and the failure of such person to select his homestead shall not impair his right thereto, but only his right to select the same when such selection * * * is lawfully made by such officer. After such homestead is thus set off by such officer, if, in his opinion or in the opinion of the plaintiff, the premises are of greater value than * * * \$10,000 he may sell the same as where the owner makes the selection.

(5) If the land claimed as an exempt homestead exceeds in value * * * \$10,000, the officer shall not be bound to set off any portion thereof but may sell the same, unless the debtor shall make his selection of such a portion thereof as shall not exceed * * * \$10,000 in value.

SECTION 3. 990.01 (13) (b) and (14) of the statutes are amended to read:

990.01 (13) (b) * * * *Any amendment * * * of a homestead statute shall not affect liens of creditors attaching * * * nor rights of devisees or heirs of persons dying prior * * * to the effective date of the amendment.*

(14) The words "exempt homestead" mean that part of the homestead within the limitation as to value set forth in s. 272.20, except as to liens attaching * * * or rights of devisees or heirs of persons dying before * * * *the effective date of any increase of that limitation as to value.*

Approved July 28, 1959.
