CHAPTER 815

EXECUTIONS

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815.01 Judgments enforced. The owner of a judgment may enforce the same in the manner provided by law.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.01.

815.02 Judgments, enforced by execution. A judgment which requires the payment of money or the delivery of property may be enforced in those respects by execution. Where it requires the performance of any other act a certified copy of the judgment may be served upon the party, person or officer who is required to obey the same, and if he or she refuse he or she may be punished for contempt, and his or her obedience enforced.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.02; 1993 a. 486.

No provision in this chapter or case law prevents a land contract vendor from filing a strict foreclosure action or obtaining a judgment of strict foreclosure because a judgment lienholder has already filed an action for foreclosure of a judgment lien and sale of the property nor is there authority that suggests a circuit court has discretion to dismiss a strict foreclosure action for that reason. The land contract vendor may choose the remedy it wishes to pursue, including strict foreclosure. Republic Bank of Chicago v. Lichosyt, 2007 WI App 150, 303 Wis. 2d 474, 736 N.W.2d 153, 06-1578.

815.03 Executions, kinds. There are 3 kinds of executions: one against the property of the judgment debtor, another against the judgment debtor's person, and the 3rd for the delivery of property, or such delivery with damages for withholding the same. They are the process of the court, and shall be as prescribed by s. 815.05.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.03; 1993 a. 486.

815.04 Execution, when issued. (1) (a) Upon any judgment of a court of record perfected as specified in s. 806.06 or any judgment of any other court entered in the judgment and lien docket of a court of record, execution may issue at any time within 5 years after the rendition of the judgment. When an execution has been issued and returned unsatisfied in whole or in part other executions may issue at any time upon application of the judgment creditor.

(b) If no execution on a judgment as described in par. (a) is issued within 5 years after the rendition of the judgment, or, if application is made by one other than the judgment creditor, execution may be issued only upon leave of the court, in its discretion, upon prior notice to the judgment debtor, served as a summons is served in a court of record. If the judgment debtor is absent or a nonresident, service of the notice may be by a class 3 notice, under ch. 985, or in any other manner that the court directs. Application shall be by the petition of the judgment creditor or of the assignee, setting forth that the judgment or a portion of the judgment remains unpaid, and that the petitioner is the bona fide owner of the judgment, for value.

(c) No executions shall issue or any proceedings be commenced upon any judgment after 20 years from the rendition of the judgment.

(2) When the sheriff holds an execution against property any person indebted to the judgment debtor may pay to the sheriff the amount of the indebted person's debt not exempt from execution or so much thereof as shall be necessary to satisfy the execution, and the sheriff's receipt shall be a sufficient discharge for the amount so paid.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.04; 1993 a. 486; 1995 a. 224.

815.05 Execution, how issued; contents. (1g) (a) The execution shall be issued from and sealed with the seal of the court and signed by the clerk of circuit court where the judgment, a certified copy of the judgment, or the transcript of the municipal judge's judgment is filed. The execution shall be directed to the sheriff or, except as provided for in par. (b), to the coroner if the sheriff is a party or interested, and countersigned by the judgment owner or the owner's attorney. The execution shall intelligibly refer to the judgment, stating all of the following:

1. The court.

2. The county where the judgment or a certified copy of the judgment or the transcript is filed.

3. The names of the parties.

4. The amount of the judgment, if it is for money.

5. The amount due on the judgment.

6. The time of entry in the judgment and lien docket in the county to which the execution is issued.

(b) Whenever a judgment is recovered in any court of record

against the sheriff, the execution thereon may be directed and delivered to any person, except a party in interest, designated by order of the court who shall perform the duties of a sheriff and be liable in all respects to all the provisions of law respecting sheriffs to the extent that those laws are applicable.

(1s) If the execution is against the property of the judgment debtor, the execution shall require the officer to whom it is directed to satisfy the judgment out of the personal property of the debtor, and if sufficient personal property cannot be found, out of the real property belonging to the judgment debtor on the day when the judgment was entered in the judgment and lien docket in the county or at any time thereafter.

(2) If real estate has been attached and judgment rendered for the plaintiff, the execution may also direct a sale of the interest that the defendant had in the attached real estate at the time it was attached or at any time thereafter.

(3) If the execution is upon a judgment to enforce a lien upon specific property, the execution shall require the officer to whom it is directed to sell the interest that the defendant had in that specific property at the time that the lien attached.

(4) If the execution is against property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property or trustees, the execution shall require the officer to whom it is directed to satisfy the judgment out of that property.

(5) If the execution is against the person of the judgment debtor, the execution shall require the officer to whom it is directed to arrest the judgment debtor and commit the judgment debtor to the county jail until the judgment debtor pays the judgment or is discharged according to law.

(6) If the execution is for the delivery of property, the execution shall require the officer to whom it is directed to deliver the possession of the property, particularly describing the property, to the party entitled to the property, and may require the officer to satisfy any costs, damages or rents and profits covered by the judgment out of the personal property of the party against whom the judgment was rendered, and shall specify the value of the property for which the judgment was recovered. If delivery of the property is not possible and if sufficient personal property cannot be found, the officer may satisfy the judgment out of the real property belonging to the person against whom the execution was rendered on the day when the judgment was entered in the judgment and lien docket or at any time thereafter.

(6m) If a judgment in replevin is entered against the principal and also against the principal's sureties under s. 810.15, the execution shall direct that the property of the surety shall not be levied on unless the property found, belonging to the principal, is not sufficient to satisfy the judgment.

(7) If the judgment is not all due, the execution may issue for the collection of any installments that have become due, and shall direct the sheriff to collect the amount then due, with interest and costs, stating the amount of each. The judgment shall remain as security for the installments thereafter to become due, and whenever any further installments become due, execution may in like manner be issued for their collection.

(8) Except as provided in s. 807.01 (4), every execution upon a judgment for the recovery of money shall direct the collection of interest at an annual rate equal to 1 percent plus the prime rate in effect on January 1 of the year in which the judgment is entered if the judgment is entered on or before June 30 of that year or in effect on July 1 of the year in which the judgment is entered if the judgment is entered after June 30 of that year, as reported by the federal reserve board in federal reserve statistical release H. 15, on the amount recovered from the date of the entry of the judgment until it is paid.

History: 1971 c. 141; Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.05; 1977 c. 305; 1979 c. 110 s. 60 (13); 1979 c. 271, 355; 1993 a. 486; 1995 a. 224; 1999 a. 85 ss. 153 to 155, 157; 1999 a. 186; 2011 a. 69.

Cross-references: The law by which the debtor may be discharged from jail is in ch. 898.

Cross-references: See s. 59.32 (2) for a provision that a sheriff is to collect fees on execution in the same manner as the sum collected under the writ.

When a transcript of a judgment docket is filed in another county, the court of that county has no jurisdiction to issue an execution. An execution may issue only from the court of entry. Wilson v. Craite, 60 Wis. 2d 350, 210 N.W.2d 700 (1973).

The rate of interest provided by a foreign judgment docketed in Wisconsin controls, not the sub. (8) rate. Professional Office Buildings, Inc. v. Royal Indemnity Co., 145 Wis. 2d 573, 427 N.W.2d 427 (Ct. App. 1988).

Sub. (8) establishes the interest rate for every judgment for which the legislature has not explicitly established a different rate. Burlington Northern Railroad Co. v. City of Superior, 159 Wis. 2d 434, 464 N.W.2d 643 (1991).

Interest accrues under sub. (8) at the stated rate only until paid, including payment to the court. The trial court did not abuse its discretion in staying execution and ordering the judgment amount paid into the court pending appeal. Management Computer Services, Inc. v. Hawkins, Ash, Baptie & Co., 224 Wis. 2d 312, 592 N.W.2d 279 (Ct. App. 1998), 97-2470.

How to Collect on a Judgment After the Demise of the Creditor's Lien. Stelljes. Wis. Law. July/Aug. 2016.

815.06 Execution, when returnable. Every execution shall be made returnable, within 60 days after its receipt by the officer, to the clerk of the court from which it issued but if the officer has levied upon property previous to the expiration of the 60 days the officer may retain such execution until the officer has sold the property. The officer shall state in the officer's return how the officer executed the writ.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.06; 1993 a. 486.

815.07 To what county issued. When the execution is against the property of the judgment debtor, the execution may be issued to the sheriff of any county where the judgment is entered in the judgment and lien docket. When the execution requires the delivery of real or personal property, the execution shall be issued to the sheriff of the county where the property or some part of the property is situated. Executions may be issued at the same time to different counties.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.07; 1995 a. 224.

815.08 Sheriff to endorse date of receipt. Upon receipt of any execution the sheriff or other officer shall endorse thereon the year, month, day and hour of the day when the sheriff or other officer received the same.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.08; 1993 a. 486.

815.09 Execution against debtor's person. If the action be one in which the defendant might have been arrested, as provided in ch. 818, an execution against the person of the judgment debtor may be issued after the return of an execution against the defendant's property unsatisfied in whole or in part; but if the defendant be imprisoned on execution in another action, or upon mesne process in the same action, an execution may issue against the defendant's body without any previous execution against the defendant's property.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.09; Sup. Ct. Order, 83 Wis. 2d xiii (1978); 1993 a. 486.

815.10 Execution against body only remedy, exception. When a party shall have been arrested on an execution no other execution upon the same judgment can be issued against the party or the party's property except as provided by s. 898.10; but if the party shall escape the party may be retaken by a new execution against the party's body or an execution against the party's property may be issued in the same manner as if the party had never been arrested on execution.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.10; 1993 a. 486.

815.11 Writs of assistance. When any order or judgment is for the delivery of possession of property real or personal the

party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the clerk.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.11.

Cross-references: Section 815.11 is the general rule for writs of execution or assistance to enforce orders or judgments for delivery of possession of real or personal property. The following are special provisions for writs of execution or assistance:

ss. 32.05 (8), 32.06 (9) (c) Condemnation proceedings.

s. 779.12 Lien foreclosure.

s. 799.44 Eviction actions.

s. 815.63 Sale of land upon execution.

s. 842.19 Partition.

s. 843.17 Actions for possession of real property.

s. 846.17 Real estate foreclosure.

815.12 Execution; death of person arrested. If any person arrested on execution shall die while under arrest a new execution may issue against the deceased's property in the same manner as if the deceased had never been arrested; but such new execution shall not be levied upon any real estate which the deceased shall have sold in good faith nor upon any real estate which shall have been sold under any other judgment against the deceased.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.12; 1993 a. 486.

815.14 Execution after debtor's death. After the expiration of one year from the death of a judgment debtor execution may be issued against any property upon which the judgment was a lien at the time of the debtor's death, and may be executed in the same manner and with the same effect as if the debtor were still living; but no such execution shall issue except upon an order, made upon sufficient cause shown. If such judgment be against such deceased debtor and others jointly execution may issue against surviving judgment debtors without delay.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.14; 1993 a. 486.

815.15 Execution after judgment creditor's death. If the judgment creditor dies before satisfaction of the judgment, an execution may be issued by the judgment creditor's attorney of record in the name of the decedent or in the name of the judgment creditor's personal representative. Before an execution shall issue in the name of a personal representative, the personal representative shall file with the clerk a copy of the letters testamentary or other letters authorizing the administration of the decedent's estate, which the clerk shall file with the other papers in the action or proceeding. The clerk shall also enter at the foot of the judgment, in the judgment record, the fact of the death of the judgment creditor and the name and date of appointment of the personal representative. The moneys collected on the judgment shall be paid to the judgment creditor's personal representative, but if there is no personal representative, the moneys collected on the judgment shall be paid to the clerk of the court.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.15; 1983 a. 302 s. 8; 1993 a. 486; 2001 a. 102.

815.17 Execution; who acts on sheriff's death or removal. If any sheriff shall die or be removed from office before the execution be returned, the deceased sheriff's undersheriff or deputy shall proceed thereon in the same manner as the sheriff might have done.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.17; 1993 a. 486.

815.18 Property exempt from execution. (1) STATUTORY CONSTRUCTION. This section shall be construed to secure its full benefit to debtors and to advance the humane purpose of preserving to debtors and their dependents the means of obtaining a livelihood, the enjoyment of property necessary to sustain life and the opportunity to avoid becoming public charges.

(2) DEFINITIONS. In this section:

(a) "Aggregate value" means the sum total of the debtor's equity in the property claimed exempt.

(am) "Annuity" means a series of payments payable during the life of the annuitant or during a specific period.

(b) "Business" means any lawful activity, including a farm operation, conducted primarily for the purchase, sale, lease or rental of property, for the manufacturing, processing or marketing of property, or for the sale of services.

(bc) "Closely held business" means a corporation whose stocks are held by not more than 25 individuals, a partnership of not more than 25 partners who are individuals, or a limited liability company of not more than 25 members who are individuals.

(c) "Debtor" means an individual. "Debtor" does not include an association, a corporation, a partnership, a cooperative, an unincorporated cooperative association, or a political body.

(d) "Dependent" means any individual, including a spouse, who requires and is actually receiving substantial support and maintenance from the debtor.

(e) "Depository account" means a certificate of deposit, demand, negotiated order of withdrawal, savings, share, time or like account maintained with a bank, credit union, insurance company, savings bank, savings and loan association, securities broker or dealer or like organization. "Depository account" does not include a safe deposit box or property deposited in a safe deposit box.

(f) "Equipment" means goods used or bought for use primarily in a business, including farming and a profession.

(g) "Equity" means the fair market value of the debtor's interest in property, less the valid liens on that property.

(h) "Exempt" means free from any lien obtained by judicial proceedings and is not liable to seizure or sale on execution or on any provisional or final process issued from any court, or any proceedings in aid of court process.

(i) "Farm products" has the meaning given under s. 409.102 (1) (ig).

(j) "Inventory" has the meaning given under s. 409.102 (1) (Ls).

(k) "Life insurance" means a policy issued by a stock or mutual life insurance company or by any mutual beneficiary or fraternal corporation, society, order or association to insure the life of an individual.

(m) "Motor vehicle" means a self-propelled vehicle. "Motor vehicle" does not include equipment.

(n) "Net income" means gross receipts paid or payable for personal services or derived from rents, dividends or interest less federal and state tax deductions required by law to be withheld.

(r) "Resident" means an individual who intends to maintain his or her principal dwelling in this state.

(t) "To the extent reasonably necessary for the support of the debtor and the debtor's dependents" means what the court determines is required to meet the present and anticipated needs of the debtor and the debtor's dependents, after consideration of the debtor's responsibilities, and the debtor's present and anticipated income and property, including exempt property.

(3) EXEMPT PROPERTY. The debtor's interest in or right to receive the following property is exempt, except as specifically provided in this section and ss. 71.91 (5m) and (6) and 102.28 (5):

(a) *Provisions for burial.* Cemetery lots, aboveground burial facilities, burial monuments, tombstones, coffins, cremation urns, urn vaults, outer burial containers, or other articles for the burial of the dead owned by the debtor and intended for the burial of the debtor or the debtor's family.

(b) *Business and farm property.* 1. Equipment, inventory, farm products, and professional books used in the business of the

debtor or the business of a dependent of the debtor, not to exceed $15,000 in aggregate value.

2. If the debtor does not claim an exemption under subd. 1., any interest of the debtor, not to exceed $15,000 in aggregate value, in a closely held business that employs the debtor or in whose business the debtor is actively involved.

(c) *Child support, family support or maintenance payments.* Alimony, child support, family support, maintenance or separate maintenance payments to the extent reasonably necessary for the support of the debtor and the debtor's dependents.

(d) *Consumer goods.* Household goods and furnishings, wearing apparel, keepsakes, jewelry and other articles of personal adornment, appliances, books, musical instruments, firearms, sporting goods, animals, or other tangible personal property held primarily for the personal, family or household use of the debtor or a dependent of the debtor, not to exceed $12,000 in aggregate value.

(df) *County fairs and agricultural societies.* All sums paid as state aid under s. 93.23 (1) to county fairs and agricultural societies.

(ds) *Federal disability insurance benefits.* All moneys received or receivable by a person as federal disability insurance benefits under 42 USC 401 to 433.

(e) *Fire and casualty insurance.* For a period of 2 years after the date of receipt, insurance proceeds on exempt property payable to and received by the debtor, if the exempt property has been destroyed or damaged by fire or casualty of any nature.

(ef) *Fire and police pension fund.* All money paid or ordered to be paid to any member of any fire or police department or to the surviving spouse or guardian of the minor child or children of a deceased or retired member of any such department, which money has been paid or ordered to be paid to any such person as a pension on account of the service of any person in any such department in any city in this state whose population exceeds 100,000.

(em) *Fire engines and equipment.* All fire engines, apparatus and equipment, including hose, hose carts and hooks and ladders, belonging to or which may hereafter belong to any town, city or village in this state, and which are or may be kept and used for the protection of property in such town, city or village from fire, together with the engine houses and hooks and ladder houses for the protection of the same, and the lot or lots on which such engine and hook and ladder houses may be situated, when owned by any such town, city or village; and any lot or lots owned, used and occupied by any such town, city or village for corporate purposes.

(f) *Life insurance and annuities.* 1. In this paragraph, "applicable date" means the earlier of the following:

a. The date on which the exemption is claimed.

b. The date, if any, that the cause of action was filed that resulted in the judgment with respect to which the execution order was issued.

2. Except as provided in subd. 3. and par. (j), any unmatured life insurance or annuity contract owned by the debtor and insuring the debtor, the debtor's dependent, or an individual of whom the debtor is a dependent, other than a credit life insurance contract, and the debtor's aggregate interest, not to exceed $150,000 in value, in any accrued dividends, interest, or loan value of all unmatured life insurance or annuity contracts owned by the debtor and insuring the debtor, the debtor's dependent, or an individual of whom the debtor is a dependent.

3. a. If the life insurance or annuity contract was issued less than 24 months before the applicable date, the exemption under this paragraph may not exceed $4,000.

b. If the life insurance or annuity contract was issued at least 24 months but funded less than 24 months before the applicable date, the exemption under this paragraph is limited to the value of the contract the day before the first funding that occurred less than 24 months before the applicable date and the lesser of either the difference between the value of the contract the day before the first funding that occurred less than 24 months before the applicable date and the value of the contract on the applicable date or $4,000.

(g) *Motor vehicles.* Motor vehicles not to exceed $4,000 in aggregate value. Any unused amount of the aggregate value from par. (d) may be added to this exemption to increase the aggregate exempt value of motor vehicles under this paragraph.

(h) *Net income.* Seventy-five percent of the debtor's net income for each one week pay period. The benefits of this exemption are limited to the extent reasonably necessary for the support of the debtor and the debtor's dependents, but to not less than 30 times the greater of the state or federal minimum wage.

(i) *Life insurance claims, personal injury or wrongful death claims.* 1. Any of the following payments:

a. A payment to the debtor under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of that individual's death, to the extent reasonably necessary for the support of the debtor and the debtor's dependents.

b. A payment resulting from the wrongful death of an individual of whom the debtor was a dependent, in an amount reasonably necessary for the support of the debtor and the debtor's dependents.

c. A payment, not to exceed $50,000, resulting from personal bodily injury, including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.

d. A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent in an amount reasonably necessary for the support of the debtor and the debtor's dependents.

2. Any property traceable to payments under subd. 1. is exempt.

(j) *Retirement benefits.* 1. Assets held or amounts payable under any retirement, pension, disability, death benefit, stock bonus, profit sharing plan, annuity, individual retirement account, individual retirement annuity, Keogh, 401-K or similar plan or contract providing benefits by reason of age, illness, disability, death or length of service and payments made to the debtor therefrom.

2. The plan or contract must meet one of the following requirements:

a. The plan or contract complies with the provisions of the internal revenue code.

b. The employer created the plan or contract for the exclusive benefit of the employer, if self-employed, or of some or all of the employees, or their dependents or beneficiaries and that plan or contract requires the employer or employees or both to make contributions for the purpose of distributing to the employer, if self-employed, the employees, or their dependents or beneficiaries, the earnings or the principal or both of a trust, annuity, insurance or other benefit created under the plan or contract and makes it impossible, at any time prior to the satisfaction of all liabilities with respect to beneficiaries under a trust created by the plan or contract, for any part of the principal or income of the trust to be used for or diverted to purposes other than for the exclusive benefit of those beneficiaries.

3. The plan or contract may permit the income created from personal property held in a trust created under the plan or contract to accumulate in accordance with the terms of the trust. The

trust may continue until it accomplishes its purposes. The trust is not invalid as violating the rule against perpetuities or any law against perpetuities or the suspension of the power of alienation of title to property.

4. The benefits of this exemption with respect to the assets held or amounts payable under or traceable to an owner-dominated plan for or on behalf of a debtor who is an owner-employee shall be limited to the extent reasonably necessary for the support of the debtor and the debtor's dependents.

5. This exemption does not apply to an order of a court concerning child support, family support or maintenance payments, or to any judgment of annulment, divorce or legal separation.

6. In this paragraph:

a. "Employer" includes a group of employers creating a combined plan or contract for the benefit of their employees or the beneficiaries of those employees.

b. "Owner-dominated plan" means any plan or contract that meets the requirements of subd. 2. and under which 90 percent or more of the present value of the accrued benefits or 90 percent or more of the aggregate of the account is for the benefit of one or more individuals who are owner-employees. For purposes of this definition, the accrued benefits or account of an owner-employee under a plan or contract shall include the accrued benefits or account of the spouse, any ancestor or lineal descendant, whether by blood or by adoption, or the spouse of such a lineal descendant, of the owner-employee under the same plan or contract.

c. "Owner-employee" means any individual who owns, directly or indirectly, the entire interest in an unincorporated trade or business, or 50 percent or more of the combined voting of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation, or 50 percent or more of the capital interest or profits interest of a partnership or limited liability company.

(k) *Depository accounts.* Depository accounts in the aggregate value of $5,000, but only to the extent that the account is for the debtor's personal use and is not used as a business account.

(m) *Private property from execution against municipalities.* All private property shall be exempt from seizure and sale upon any execution or other process issued to enforce any judgment or decree of any court that has been rendered against any county, town, city, village, technical college district or school district in this state.

(n) *War pension.* All money received by a person, a resident of this state, as pension, compensation, government insurance, or adjusted compensation, back pension, compensation or insurance from the U.S. government on account of military or naval service, and all other money received by a person on account of military or naval service from the U.S. government administered by the U.S. department of veterans affairs, whether the same is in the actual possession of such person, on deposit, or loaned.

(o) *Tuition units.* Tuition units purchased under s. 224.48.

(p) *College savings accounts.* An interest in a college savings account under s. 224.50.

(4) TRACING. Property traceable to property that would be exempt under this section in the form of cash proceeds or otherwise is not exempt unless expressly provided for in this section.

(5) AVAILABILITY. A resident is entitled to the exemptions provided by this section. A nonresident is entitled to the exemptions provided by the law of the jurisdiction of his or her residence.

(6) CLAIMING EXEMPTIONS. (a) A debtor shall affirmatively claim an exemption or select specific property in which to claim an exemption. The debtor may make the claim at the time of seizure of property or within a reasonable time after the seizure, but shall make the claim prior to the disposition of the property by sale or by court order. Exempt property is not exempt unless affirmatively claimed as exempt. With respect to property partially exempt under this section, the claiming of an exemption includes the process of selection required of the debtor. The debtor or a person acting on the debtor's behalf shall make any required affirmative claim, either orally or in writing, to the creditor, the creditor's attorney or the officer seeking to impose a lien by court action upon the property in which the exemption is claimed. A debtor waives his or her exemption rights by failing to follow the procedure under this paragraph. A contractual waiver of exemption rights by any debtor before judgment on the claim is void. The court, in making a determination as to the extent property is reasonably necessary for the support of the debtor and the debtor's dependents, is not limited to the standard of living to which the debtor and the debtor's dependents have become accustomed. The court shall consider the amount and use of any income of any person claimed as a dependent when determining if that person is a dependent of a debtor.

(b) Notwithstanding sub. (13), this subsection does not apply to any of the following:

1. Public employee trust funds exempt under s. 40.08 (1).

2. Retirement benefits and allowances from retirement systems of 1st class cities exempt under s. 62.63 (4).

3. Retirement benefits and allowances from retirement systems of counties having a population of 750,000 or more exempt under chapter 201, laws of 1937, section 11.

4. A homestead exempt under s. 815.20.

(7) VALUATION OF PROPERTY. The value of any property subject to exemption under this section shall be determined by agreement of the parties or by a commercially reasonable manner.

(8) MARITAL PROPERTY RIGHTS. Each spouse is entitled to and may claim the exemptions under this section. If the property exempt under this section is limited to a specified maximum dollar amount, each spouse is entitled to one exemption. That exemption is limited to the specified maximum dollar amount, which may be combined with the other spouse's exemption in the same property or applied to different property included under the same exemption. The exemption under sub. (3) (h) may not be combined with the other spouse's exemption under sub. (3) (h) and applied to the same property.

(9) PARTIALLY EXEMPT PROPERTY. In the case of property that is partially exempt, the debtor or any person acting on the debtor's behalf is entitled to claim the exempt portion of property. The exempt portion claimed shall be set apart for the debtor, or for the debtor's dependents, and the nonexempt portion shall be subject to a creditor's claim. If partially exempt property is indivisible, the property may be sold and the exempt value of the property paid to the debtor or the debtor's dependents. Any proceeds paid to the debtor or to the debtor's dependents shall be exempt while held by the debtor or the debtor's dependents as cash or in a depository account.

(10) FRAUDULENT AND VOIDABLE TRANSFERS. A conveyance or transfer of wholly exempt property shall not be considered a fraudulent conveyance or a fraudulent or voidable transfer. Property that is not totally exempt in value under this section may be subject to a voidable transfer action under ch. 242 to set aside that transfer to the extent that the property's value is not exempt under this section. If a court is required to satisfy the claim of a creditor and if that relief is demanded, the court may determine the manner of dividing fraudulently transferred property or property for which the transfer is voidable into exempt and nonexempt portions, or may order the sale of the whole property and an accounting of the exempt portion. Any or all of the ex-

emptions granted by this section may be denied if, in the discretion of the court having jurisdiction, the debtor procured, concealed or transferred assets with the intention of defrauding creditors.

(11) CONSUMER CREDIT TRANSACTION EXEMPTIONS. The debtor may claim either the exemptions listed in s. 425.106 or the exemptions under this section for an obligation arising from a consumer credit transaction.

(12) LIMITATIONS ON EXEMPTIONS. No property otherwise exempt may be claimed as exempt in any proceeding brought by any person to recover the whole or part of the purchase price of the property or against the claim or interest of a holder of a security interest, land contract, condominium or homeowners association assessment or maintenance lien or both, mortgage or any consensual or statutory lien.

(13) APPLICABILITY TO OTHER PROPERTY. Subsections (2), (4) to (7), (9), (10) and (12) apply to the following exempt property except as otherwise provided by law:

(a) Assistance benefits exempt under s. 49.96.

(b) Crime victim awards exempt under s. 949.07.

(c) Fraternal benefits exempt under s. 614.96.

(d) A homestead exempt under s. 815.20.

(e) Partnership property, as described in ss. 178.0203 and 178.0204.

(f) Public employee trust fund benefits exempt under s. 40.08 (1).

(g) Salary used to purchase savings bonds exempt under s. 20.921 (1) (e).

(h) Retirement benefits and allowances from retirement systems of 1st class cities exempt under s. 62.63 (4).

(hm) Retirement benefits and allowances from retirement systems of counties having a population of 750,000 or more exempt under chapter 201, laws of 1937, section 11.

(i) Tenant's lease and stock interest of a housing corporation exempt under s. 182.004 (6).

(j) Unemployment insurance benefits exempt under s. 108.13.

(k) Veterans benefits exempt under s. 45.03 (8) (b).

History: 1971 c. 154, 172; 1971 c. 211 s. 126; 1971 c. 229 s. 14; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1975 c. 359 s. 51; Stats. 1975 s. 815.18; 1979 c. 110 s. 60 (4); 1979 c. 191, 265, 355; 1985 a. 37; 1989 a. 56, 278, 359; 1991 a. 39, 221; 1993 a. 112, 399, 491; 1995 a. 27, 403; 1997 a. 39; 1999 a. 9, 44; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 10; 2003 a. 138, 304; 2005 a. 22, 441; 2009 a. 80; 2011 a. 32, 258; 2015 a. 237, 295; 2017 a. 59; 2017 a. 207 s. 5; 2023 a. 12, 246.

Sub. (31) [now sub. (3) (j)] does not violate article I, section 17, of the Wisconsin Constitution. North Side Bank v. Gentile, 129 Wis. 2d 208, 385 N.W.2d 133 (1986).

So long as a debtor initially files claimed exemptions within a reasonable time after seizure, and prior to disposition, nothing prohibits a debtor from amending the claim. Tralmer Sales & Service, Inc. v. Erickson, 186 Wis. 2d 549, 521 N.W.2d 182 (Ct. App. 1994).

The presence of a beneficiary-specific exemption in s. 16.641 [now s. 224.50] does not mean that the general exemption in sub. (3) (p) is ambiguous. The general exemption statute is succinct and straightforward. Sub. (3) (p) applies to an account owner's interest in a s. 16.641 [now s. 224.50] college savings account. Cirilli v. Bronk, 775 F.3d 871 (2015).

An annuity does not have to comply with multiple provisions of the Internal Revenue Code (IRC) to qualify for an exemption under sub. (3) (j). "Complies with the provisions of the internal revenue code" in sub. (3) (j) 2. a. means eligibility to receive the tax deferral applicable to annuities under the IRC. Since the IRC taxes most income in one way or another, the critical issue in taxing an annuity is whether the taxpayer can benefit from deferred taxation of the implicit appreciation of the principal paid up front for the stream of later income. Accordingly, the most sensible reading of the statute is that the exemption under sub. (3) (j) should not depend on whether the annuity is taxable in accordance with the IRC but rather whether the tax is deferred in accordance with the IRC. Wittman v. Koenig, 831 F.3d 416 (2016).

The referee did not abuse his discretion under s. 272.18 (30) (a) [now sub. (10)] in ruling that a debtor, by fraudulently concealing and transferring assets, forfeited any right to exemptions, only with respect to collection of trustee's judgment. Ottusch v. Schroeder, 356 F. Supp. 417 (1973).

Updating Wisconsin's Exemption Law. Ludwig & Pouros. Wis. Law. Aug. 1990.

815.19 Levy on personal property; appraisal.

(1) Personal property shall be bound from the time it is seized. Whenever personal property is seized on attachment or execution and any part of the property is exempt therefrom and the exemption is claimed by the debtor or the debtor's spouse, the officer making the seizure shall, upon request by either of them, or may upon the officer's motion, cause the exempt property to be appraised by 2 disinterested freeholders of the county, who shall first be sworn by the officer to make a true appraisement thereof, which appraisement shall be in writing, be signed by the appraisers and be prima facie evidence of the value of the property appraised. The appraisement, together with the true inventory of all the property seized, shall be returned with the writ. The fees of the appraisers are prescribed in s. 814.72.

(2) If the property seized is an automobile which is appraised and can be sold for more than $1,000 or if the property seized is a tractor used in farming operations which is appraised and can be sold for more than $1,500, the officer may sell such automobile or tractor and out of the proceeds of such sale the officer shall pay to the debtor or the debtor's spouse the exempted value of such automobile or tractor. The balance of the proceeds of such sale shall be applied on the execution or attachment.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); 1975 c. 94 s. 91 (3); 1975 c. 199; Stats. 1975 s. 815.19; 1979 c. 355; 1981 c. 317; 1983 a. 186.

815.195 Levy on real property; how made.

Levy of execution on real property is made by endorsing on the execution a description of the property on which the levy was made, and recording the execution, so endorsed, in the office of the register of deeds.

History: 1973 c. 189; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.195; 1993 a. 301.

815.20 Homestead exemption definition.

(1) An exempt homestead as defined in s. 990.01 (14) selected by a resident owner and occupied by him or her shall be exempt from execution, from the lien of every judgment, and from liability for the debts of the owner to the amount of $75,000, except mortgages, laborers', mechanics', and purchase money liens and taxes and except as otherwise provided. The exemption shall not be impaired by temporary removal with the intention to reoccupy the premises as a homestead nor by the sale of the homestead, but shall extend to the proceeds derived from the sale to an amount not exceeding $75,000, while held, with the intention to procure another homestead with the proceeds, for 2 years. The exemption extends to land owned by husband and wife jointly or in common or as marital property, and each spouse may claim a homestead exemption of not more than $75,000. The 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 entered in the judgment and lien docket, and any heir, devisee, or grantee of the owner, or any mortgagee of the homestead, may proceed under s. 806.04 for declaratory relief if the homestead is less than $75,000 in value and the owner of the judgment shall fail, for 10 days after demand, to execute a recordable release of the homestead from the judgment owner's judgment lien.

History: 1973 c. 168; Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.20; 1983 a. 186; 1985 a. 153; 1993 a. 486; 1995 a. 224; 2009 a. 80.

A defendant who has moved to Michigan intending to stay there loses the defendant's Wisconsin homestead exemption. A defendant cannot have an exemption in two states. Plan Credit Corp. v. Swinging Singles, Inc., 54 Wis. 2d 146, 194 N.W.2d 822 (1972).

A vendee in a land contract has an interest sufficient to sustain a homestead exemption. The holder of a judgment lien is subject to a mortgage dated after the judgment. A homestead exemption does not depend on a formal claim to it. Occupancy at the time a lien attaches is sufficient. Lueptow v. Guptill, 56 Wis. 2d 396, 202 N.W.2d 255 (1972).

Rental income from a rented portion of a homestead is exempt under the homestead exemption. Schwanz v. Teper, 66 Wis. 2d 157, 223 N.W.2d 896 (1974).

Property purchased by a debtor subsequent to the docketing of a judgment and immediately occupied as a homestead becomes exempt to the extent of the statutory protection. Northern State Bank v. Toal, 69 Wis. 2d 50, 230 N.W.2d 153 (1975).

The homestead exemption may arise in a partition action. Reckner v. Reckner, 105 Wis. 2d 425, 314 N.W.2d 159 (Ct. App. 1981).

This section is a statutory expression of a public policy embodied in article I, section 17, of the Wisconsin Constitution that creditors should not be permitted to deprive a debtor of the necessary comforts of life. The homestead exemption is interpreted broadly to protect the homeowner. Reckner v. Reckner, 105 Wis. 2d 425, 314 N.W.2d 159 (Ct. App. 1981).

Homestead rights are no greater than the underlying property rights when those property rights have been limited by the owners themselves. Master Lock Credit Union v. Rayford, 119 Wis. 2d 301, 349 N.W.2d 737 (Ct. App. 1984).

Owners who permanently remove themselves from a home that is for sale with the intent of using the proceeds to procure another home are entitled to a homestead exemption in the sale proceeds. Moore v. Krueger, 179 Wis. 2d 449, 507 N.W.2d 155 (Ct. App. 1993).

Because a judgment lien was subject to the homestead exemption while a federal tax lien was not, the operation of the homestead exemption effectively subordinated the otherwise superior judgment lien to the status of a junior lien, which was discharged by operation of federal law by the execution of the Internal Revenue Service's quitclaim deed after judicial sale. CVW, Ltd. v. Stress, 230 Wis. 2d 450, 602 N.W.2d 162 (Ct. App. 1999), 99-0252.

When equity in a homestead exceeds $40,000 [now $75,000], the homestead is partially exempt, and a docketed judgment is a lien upon the debtor's equity in excess of the $40,000 [now $75,000]. If a debtor has less than $40,000 [now $75,000] in equity, the homestead is fully exempt, and the debtor has no interest to which a judgment lien may attach. Accordingly a debtor-seller can give clear title to the purchaser of fully exempt property. Rumage v. Gullberg, 2000 WI 53, 235 Wis. 2d 279, 611 N.W.2d 458, 98-1276.

An in-court oral stipulation could create a mortgage interest in property, but under s. 706.02 (1) (f), a homestead conveyance must bear the conveyors' signatures. Because the stipulation lacked signatures, it was not a mortgage that could defeat the homestead exemption under sub. (1). Equitable Bank, S.S.B. v. Chabron, 2000 WI App 210, 238 Wis. 2d 708, 618 N.W.2d 262, 99-2639.

A homestead created and maintained with stolen or embezzled property, or by the wrongful appropriation of property rightly belonging to others, is not protected by the homestead exemption. Paulman v. Pemberton, 2001 WI App 164, 246 Wis. 2d 909, 633 N.W.2d 715, 98-3021.

To qualify for the homestead exemption in sub. (1), a debtor generally needs to own or lease property that the debtor in fact occupies as the debtor's homestead. However, sub. (1) carves out two distinct circumstances in which the homestead exemption is not impaired despite a lack of occupancy by the owner for some identified period of time: 1) a temporary removal exception, which involves an owner's intentionally transient absence from the homestead; and 2) the owner's sale of the homestead with intent to use the proceeds to obtain a new homestead. The combined result of these two exceptions to the general occupancy requirement is that the exemption on a homestead is lost—in statutory terms, it is "impaired"—when the debtor removes herself or himself from a homestead with no intent either to reoccupy or to sell the house and use the proceeds to procure another homestead. Anderson v. Anderson Tooling, Inc., 2021 WI App 39, 398 Wis. 2d 595, 961 N.W.2d 911, 20-0898.

To preserve the homestead exemption under sub. (1), a debtor is not required to intend to "permanently" reoccupy the homestead. In this case, the judgment debtors' temporary absences while actively looking for a potential homestead in Iowa to replace their Wisconsin homestead did not impair the exemption, even if they planned that their serial absences and reoccupancies of the Wisconsin property as their homestead would eventually end with the establishment of a new homestead, perhaps even in the near future. Anderson v. Anderson Tooling, Inc., 2021 WI App 39, 398 Wis. 2d 595, 961 N.W.2d 911, 20-0898.

Merely having a property right to what could become a new homestead if it were occupied as a homestead does not, on its own, lead to the establishment of a new homestead and the abandonment of an old one. Actual occupancy as a homestead is required. Anderson v. Anderson Tooling, Inc., 2021 WI App 39, 398 Wis. 2d 595, 961 N.W.2d 911, 20-0898.

A judgment debtor's assertion of a homestead exemption generally establishes a presumption that the property is homestead property. A judgment creditor may rebut that presumption by showing that the debtor claiming the exemption does not occupy the claimed homestead, including for the reason that the debtor has established a new homestead before having sold the homestead on which the debtor claims the exemption. When a debtor ceases to occupy the premises of the claimed homestead, it is the debtor's burden to show that the circumstances qualify for one of the two exceptions to impairment based on the debtor's absence from the homestead. Anderson v. Anderson Tooling, Inc., 2021 WI App 39, 398 Wis. 2d 595, 961 N.W.2d 911, 20-0898.

The homestead exemption is void under the supremacy clause of the U.S. Constitution to the extent that it impedes a federal court restitution order. United States v. Lampien, 89 F.3d 1316 (1996).

Establishment and Abandonment of a Wisconsin Homestead. Kreitler. 1973 WLR 876.

Judgment Lien Claimants' Rights Against Homestead Exemption Interests: An Equitable Distribution of Mortgage Foreclosure Sale Proceeds. Steinmetz. 1981 WLR 697.

815.205 Certain property of spouse exempt from execution. (1) Property described in s. 806.15 (4) (intro.) is exempt from execution on a judgment lien that attaches to that property under s. 806.15 (4) (b) if the property is not available under s. 766.55 to satisfy the obligation for which the judgment was rendered.

(2) (a) If execution is issued in connection with the enforcement of a judgment lien on property that is exempt under sub. (1) from execution on the judgment lien, a person with an ownership interest in the property other than the judgment debtor may, at any time before the sale of the property, notify the officer making the levy that the property is exempt from execution. The person making the notification of the exemption shall provide the officer with a description of the property.

(b) If notification is made under par. (a), sale of the property is stayed if, within 5 days after the notification, demand on the owner of the judgment is made by a person with an ownership interest in the property other than the judgment debtor for a recordable release of the property from the judgment. If within 5 days after the demand the owner of the judgment fails to execute the recordable release, the stay on the sale of the property continues if a person with an ownership interest in the property other than the judgment debtor commences an action under s. 806.04 for declaratory relief within 15 days after the demand was made. The stay on the sale of the property continues until the court determines whether the property is exempt under sub. (1). If no action under s. 806.04 is commenced within the required period, the stay lapses on the expiration of the required period.

(c) If the sale of property is stayed under this subsection, no additional stay on the sale of that property is available under this subsection, regardless of whether the additional stay is sought by the person who initially gave notice under par. (a) or by any other person with an ownership interest in the property.

History: 1991 a. 301.

NOTE: 1991 Wis. Act 301 contains extensive legislative council notes.

815.21 Homestead, how set apart after levy. (1) Whenever a levy shall be made upon lands of any person, the landowner may notify the officer making such levy, at any time before the sale, that the landowner claims an exempt homestead in such lands, giving a description thereof, and the landowner's 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 exemption or be dissatisfied with the quantity or estimate of the value of the land selected.

(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 $75,000, 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 $75,000 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 $75,000 is paid for said premises. The expenses of such survey and sale shall be collected on the execution if the owner claimed as the owner's homestead a greater quantity of land or land of greater value than the owner was entitled to; otherwise such expenses shall be borne by the plaintiff.

(3) If such survey be made the land not exempt shall be sold, but if any person shall neglect or refuse to select the person's exempt homestead and notify such officer, such officer shall, upon request of the plaintiff, and may without such request, give notice to such person that at a time and place to be therein named such officer will survey and locate the exempt homestead; and unless such person shall on or before the time so fixed select such exempt homestead, such officer shall survey and locate and set the same off in a compact form. If the owner after such notice selects

the owner's exempt homestead, this section shall apply the same as if the owner had selected it before such notice.

(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 that person's homestead shall not impair that person's right thereto, but only that person's 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 the officer's opinion or in the opinion of the plaintiff, the premises are of greater value than $75,000 the officer may sell the same as where the owner makes the selection.

(5) If the land claimed as an exempt homestead exceeds in value $75,000, the officer shall not be bound to set off any portion thereof but may sell the same, unless the debtor shall make the debtor's selection of such a portion thereof as shall not exceed $75,000 in value.

History: 1973 c. 168; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.21; 1985 a. 153; 1993 a. 486; 2009 a. 80.

There is a strong public policy to protect the homestead exemption, even in the face of inaction. Sub. (1) provides that when there is a levy upon the lands of any person, that person can claim a homestead exemption at any time before sale. Anchor Savings & Loan Ass'n v. Week, 62 Wis. 2d 169, 213 N.W.2d 737 (1974).

815.24 Indemnity may be required. If there is any reasonable doubt as to the ownership of the property or as to its liability to be taken on the execution the officer may require sufficient security to indemnify the officer for levying upon such property.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.24; 1993 a. 486.

The term "reasonable" requires that the officer provide a reason for requiring security. Ter Maat v. Barnett, 156 Wis. 2d 737, 457 N.W.2d 551 (Ct. App. 1990).

815.25 Money applied; negotiable instruments sold. Upon executions against property the officer shall levy upon any current money of the United States and shall pay and return the same without exposing it for sale, and the officer may also levy upon and sell any evidences of debt circulated as money, or a bond or other instrument for the payment of money which is negotiable or payable to the bearer or holder.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.25; 1993 a. 486.

815.26 Equities sold. When personal property is subject to a security interest, the right and interest of the debtor in such property may be sold on execution against the debtor, subject to the rights, if any, of the secured party.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.26; 1993 a. 486.

815.29 Notice of sale of personal property, manner, adjournment. (1) No execution sale of personal property shall be made unless 20 days previous notice of such sale has been given by posting a notice thereof in one public place of the town or municipality where such sale is to be had and, if the county where such sale is to be had maintains a website, by posting a notice on the website. If the town or municipality where such sale is to be had maintains a website, the town or municipality may also post a notice on its website. The notice shall specify the time and place of sale but when any property seized is likely to perish or depreciate in value before the expiration of the 20 days the court or a judge may order the same to be sold in such manner and upon such terms as the best interests of the parties demand. Every such sale shall be made at auction between the hours of 9 a.m. and 5 p.m. and no property shall be sold unless it is in view of those attending the sale, except as provided in ss. 71.91 (5) (c) 2. and 108.22 (3) (b) and in the case of the sale of the interest of the judgment debtor in property in the possession of a secured party. It shall be offered for sale in such lots and parcels as is calculated to bring the highest price.

(2) Such sale may be adjourned as provided in s. 815.31 for sale of real estate.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.29; 2009 a. 325; 2015 a. 55; 2017 a. 157; 2017 a. 365 s. 112.

815.31 Notice of sale of realty; manner; adjournment. (1) The time and place of holding any sale of real estate on execution shall be publicly advertised by posting a written notice describing the real estate to be sold with reasonable certainty in one public place in the town or municipality where such real estate is to be sold and, if the county where such real estate is to be sold maintains a website, by posting a notice on the website, at least 3 weeks prior to the date of sale; and also in one public place of the town or municipality in which the real estate is situated, if it is not in the town or municipality where the sale is to be held and, if the county where such real estate is situated maintains a website, also posting a notice on the website. If the town or municipality where such real estate is situated or is to be sold maintains a website, the town or municipality may also post a notice on its website.

(2) A copy of the notice of sale shall be printed each week for 3 successive weeks in a newspaper of the county prior to the date of sale.

(3) If there be no newspaper published in the county and the premises are not occupied by any person against whom the execution is issued or by some person holding as tenant or purchaser under the person against whom the execution is issued, such notice shall be so published in a paper printed at Madison.

(4) The court, or a judge, upon application of the party issuing the execution shall direct, by order, the newspaper in which the publication of the notice is to be made.

(5) If at the time appointed for any such sale the sheriff considers it in the interest of all persons concerned, the sheriff may adjourn the sale from time to time, not exceeding in all 3 months. In case of such adjournment public notice thereof shall be given at the time and place fixed for the sale. If the adjournment shall be for more than one day further notice shall be given by posting or publishing the same, or both, as the time and circumstances may admit.

(6) Every sale shall be at auction between 9 o'clock in the forenoon and 5 o'clock in the afternoon.

History: 1973 c. 189; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.31; 1993 a. 486; 2009 a. 325; 2011 a. 136; 2017 a. 365 s. 112.

815.33 Execution; sale in parcels; limitation. When real estate offered for sale on execution consists of several lots, tracts or parcels they shall be separately offered for sale; and if any person claiming to be the owner of any of such lots or parcels or an interest or estate therein or claiming to be entitled to redeem the same shall require it to be offered for sale separately, the sheriff shall offer the same for sale accordingly. No more shall be sold than shall appear necessary to satisfy the execution.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.33.

815.34 Execution sale without notice. Any officer who shall sell real estate upon execution without having given the previous notices directed by s. 815.31, or otherwise than in the manner prescribed by law, shall be liable to the party injured in the sum of $1,000 damage and also for the actual damages sustained.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.34.

815.35 Execution; taking down notice. If any person shall take down or deface any notice of a sale upon execution put up by any officer, previous to the day of sale therein specified,

unless upon satisfaction of the execution or upon the consent of the parties to the action, such person shall be liable to the party suing out such execution in the sum of $50.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.35.

815.36 Execution sale, want of notice, when immaterial. The omission of any officer to give the notice of execution sale required or the taking down or defacing of any such notice shall not affect the validity of any sale made to a purchaser in good faith, without notice of any such omission or offense.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.36.

815.37 Execution sale; officer not to purchase. The officer to whom any execution shall be directed and the officer's deputy holding any execution and conducting any sale in pursuance thereof shall not, directly or indirectly, purchase any property at such sale; and every purchase made by such officer or deputy, or to the officer's or deputy's use, shall be void.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.37; 1993 a. 486.

815.38 Execution, certificate of sale, recording. (1) Upon the sale of real estate on execution the officer making the same shall make out and subscribe duplicate certificates of such sale containing a particular description of the premises sold; the price bid for each distinct lot or parcel; the whole consideration money paid; and the time when such sale will become absolute and the purchaser will be entitled to a conveyance pursuant to law and shall record one of the duplicate certificates within 10 days after the sale in the office of the register of deeds and shall deliver the other to the purchaser. If there are 2 or more purchasers a certificate shall be delivered to each.

(2) Promptly following every execution sale the sheriff shall return the execution into court and record with it a detailed report of his or her doings upon the execution.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.38; 1993 a. 301.

Cross-references: See s. 59.32 (2) for provision that sheriff is to collect his fees on execution in the same manner as the sum collected under the writ.

815.39 Execution sale; redemption of real estate. (1) Except as provided in sub. (2), within one year after an execution sale the real estate sold, or any lot, tract or portion that was separately sold, may be redeemed by the payment to the purchaser, to the purchaser's personal representatives or assigns, or to the sheriff of the county where the real estate is situated, for the use of such purchaser, of the sum paid on the sale thereof, together with the interest from the time of the sale.

(2) If an execution sale is for a lien filed under s. 823.23 (5), the period of redemption under sub. (1) is 2 months.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.39; 1993 a. 486; 2001 a. 86.

815.40 Execution sale; who may redeem. (1) Redemption from execution sale of real estate may be made by a person whose right and title was sold or, if the person is dead, by the person's devisee of the premises sold, and if the same shall not have been devised, by the deceased's heirs; or, by any grantee of such person who shall have acquired an absolute title to the premises sold, or to any lot, parcel or portion separately sold.

(2) Any such heir or devisee or grantee who shall have acquired an absolute title to a portion of the estate sold or a portion of any lot, tract or parcel that shall have been separately sold may redeem the portion on the same terms and in the same manner as if the heir, devisee or grantee were grantee of the whole lot or parcel, and shall have the same remedy to enforce contributions from those who shall own the residue thereof as if the sum required to be paid by the heir, devisee or grantee to effect such redemption had been collected by a sale of the portion belonging to such grantee, heir or devisee.

(3) If there be joint tenants or tenants in common in premises sold each tenant may redeem the share or interest belonging to that tenant by paying to the purchaser or officer, a sum that will bear the same proportion to the whole sum bid therefor as the redeemed share bears to the whole number of shares in such premises together with the interest.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.40; 1993 a. 486.

815.43 Execution sale; redemption makes sale void. Upon redemption of any real estate sold on execution, the sale of the premises redeemed and the certificates of such sale, so far as they relate thereto, shall be null and void.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.43.

815.44 Execution; purchaser's interest. (1) WHO MAY ACQUIRE. In case the premises sold on execution or any part of them are not redeemed within the year prescribed by ss. 815.39 (1) and 815.40 then the interest of the purchaser may be acquired within 3 months after the expiration of the redemption period by the persons and on the terms prescribed in this section.

(2) CREDITORS, MORTGAGEES, INTEREST. Any creditor of the person against whom such execution issued having a judgment or a recorded mortgage which is a lien upon the premises sold, or upon any lot or parcel or portion separately sold, may within fifteen months from the time of such sale by paying the sum paid on the sale thereof, together with interest from the time of such sale, thereby acquire all the rights of the original purchaser, subject to be defeated in the manner mentioned in s. 815.48.

(3) SALES OF UNDIVIDED INTERESTS. Any owner of such judgment or mortgage which is a lien upon any undivided share or interest in any real estate sold under execution, may, within the same time, on the same terms and in the same manner, acquire the title of the original purchaser to such share or interest by paying such part of the whole purchase money of such real estate as shall be in a just proportion to the amount of such share or interest.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.44; 1997 a. 254; 2001 a. 86.

815.48 Execution sale; creditors may acquire title of preceding creditor. Whenever any creditor shall acquire the title of the original purchaser, pursuant to s. 815.44, any other creditor who might have acquired such title may become a purchaser thereof from the first creditor who acquired the same upon the following conditions:

(1) By paying to such first creditor, the first creditor's personal representatives or assigns the sum which the first creditor paid to acquire such title, together with interest thereon from the time of the first creditor's payment.

(2) If the judgment or mortgage by virtue of which the first creditor acquired the title of the original purchaser be prior to the judgment or mortgage of such 2nd creditor and is still a lien as to such 2nd creditor the 2nd creditor shall also pay to such first creditor the amount due on the first creditor's judgment or mortgage.

(3) In the same manner any third or other creditor who might have acquired the title of the original purchaser may become a purchaser thereof from the second, third or other creditor who may have become such purchaser from any other creditor, upon the terms and conditions before specified in this section.

(4) If the original purchaser of any premises shall also be a creditor of the defendant against whom the execution issued, and as such might acquire the title of any purchaser according to the preceding provisions, the original purchaser may avail himself or herself of his or her judgment or mortgage, in the manner and on

the terms prescribed, to acquire the title which any creditor may have obtained.

(5) But the judgment creditor, under whose execution the real estate was sold cannot acquire the title of the original purchaser or of any creditor to the premises so sold by virtue of the judgment on which such execution issued.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.48; 1993 a. 486.

815.52 Payment on acquisition of purchaser's or creditor's interest. The sums required to be paid to acquire the title of the original purchaser at the execution sale or to become a purchaser from any creditor may be paid to such purchaser or creditor, to the purchaser's or creditor's representative or assigns or to the then sheriff of the county where the real estate is situated; upon such payment being made the title of the original purchaser shall be thereby transferred to the creditor acquiring the same and from such creditor to any other creditor becoming a purchaser thereof.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.52; 1993 a. 486.

815.53 Execution sale; evidences of right of creditor to acquire title. To entitle any creditor to acquire the title of the original purchaser on the execution sale or to become a purchaser from any other creditor, the creditor shall exhibit to such purchaser or other creditor or to the sheriff the following evidences of the creditor's right:

(1) A certified copy of the creditor's judgment or of the record of the creditor's mortgage.

(2) A certified copy of all assignments of such judgment or mortgage which are necessary to establish the creditor's claim.

(3) A certified copy of the creditor's letters testamentary or other letters authorizing the administration of the decedent's estate, in the case of a personal representative.

(4) An affidavit of such creditor or his or her attorney, or agent stating the sum due on such judgment or the sum owing on such mortgage at the time of claiming such right to purchase. Within 3 days after making such acquisition such creditor shall record such evidences of his or her right in the office of the register of deeds of the county where the original certificate of sale is filed.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.53; 1993 a. 301, 486; 1995 a. 224; 2001 a. 102.

815.54 Execution sale, title when divested, action for injury to premises. The right and title of the person against whom the execution was issued, to any real estate which shall be sold thereby, shall not be divested by such sale until the expiration of fifteen months from the time of sale; and if such real estate shall not have been redeemed and a deed shall be executed in pursuance of a sale the grantee shall be vested with the legal estate from the time of the sale for the purpose of an action for an injury to such real estate.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.54.

815.55 Execution sale; deed when to issue; limitation. If after the expiration of 15 months from the time of the sale of any real estate upon execution any part of the premises sold shall remain unredeemed, the sheriff of the county in which the real estate is situated shall, on demand, execute a deed for the unredeemed premises to the person entitled to the deed. The deed shall convey all of the right, title and interest which was sold upon the execution, except that no deed shall be issued after 20 years from the date of the sale.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.55; 1997 a. 254.

815.56 Sheriff's deed; grantee if purchaser dead. If the person who would be entitled to a deed of real estate sold on execution dies before the delivery of that deed, the sheriff shall execute a deed to the decedent's personal representative who shall either hold the real estate in trust for the use of the heirs or devisees of the decedent, subject to the surviving spouse's right to elect under s. 861.02 (1), or sell the real estate for the payment of debts in the same manner as lands owned by the decedent.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); 1975 c. 94 s. 91 (5); 1975 c. 199; Stats. 1975 s. 815.56; 1983 a. 186; 1985 a. 37; 1987 a. 393 s. 53; 1997 a. 188; 2001 a. 102.

815.57 Sheriff's deed, recovery of purchase price on eviction. If the purchaser of real estate sold on execution, the purchaser's heirs or assigns shall be evicted from such real estate, or if in an action for the recovery thereof judgment shall be rendered against the purchaser or the purchaser's heirs or assigns in consequence of any irregularity in such sale, or of the judgment upon which such execution issued being vacated or reversed, the purchaser or the purchaser's heirs or assigns may recover of the party for whose benefit such real estate was sold the amount paid on the purchase thereof, with interest.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.57; 1993 a. 486.

815.58 Execution sale; judgment, creditor's further remedy. The party for whose benefit real estate was sold on execution and the party's personal representatives, upon recovery being had against him or her under s. 815.57 in consequence of any irregularity in such sale, may have further execution upon the judgment to levy the sum paid on such sale, with interest. Such judgment shall be effectual for that purpose against the defendant, the defendant's personal representative, heirs and devisees; but not against any purchaser in good faith or any encumbrancer whose title or whose encumbrance accrued before the levy of such execution.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.58; 1993 a. 486; 1995 a. 225.

815.59 Contribution when lands of several are sold on execution. (1) When lands of several persons shall be liable to satisfy any final judgment and the whole of such judgment or more than a due proportion thereof shall be paid by one of such persons or shall be levied upon the lands of any one or more of such persons, the persons so aggrieved or their personal representatives may compel a just contribution by all the persons whose lands ought to contribute to said satisfaction.

(2) Such lands are liable to contribution in the following order:

(a) If they were conveyed by the defendant in the execution, they are liable in succession, commencing with the lands last conveyed.

(b) If they were sold under execution against the defendant, they are liable in succession, commencing with the lands sold under the youngest judgment.

(c) If there be lands so liable, which were conveyed by the defendant in execution, and also lands which were sold under execution against the defendant the lands are liable in succession, according to the order herein prescribed.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.59; 1993 a. 486.

815.61 Proceedings to recover contribution. In an action to compel contribution under s. 815.59 the court shall, in a proper case, permit the plaintiff to use the original judgment and issue execution thereon, for the amount which ought to be contributed by the lands subject to the lien of such judgment, and for that purpose such original judgment shall remain a lien, when preserved as provided in s. 815.62, for the term of 10 years from the date of the entry thereof, to the extent of the sum which ought

to be so contributed, but in all cases such liens shall continue for the purposes above stated for 3 years after any sale under which contribution is claimed.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.61.

815.62 Lien, how preserved after execution sale; clerk's fee. To preserve the lien of the original judgment upon lands and subject them to sale on execution under s. 815.61, the person aggrieved shall, within 20 days after the payment for which he or she claims a contribution, file an affidavit with the clerk of circuit court in which the original judgment was rendered, stating the sum paid and his or her claim to use the judgment for the reimbursement of the payment. The clerk of circuit court shall enter in the judgment and lien docket the sum paid and that the judgment is claimed to be a lien in that amount. To preserve the lien upon property situated in a county other than the county where the circuit court that rendered the judgment is located, a similar affidavit and notice shall be filed with the clerk of circuit court for that county and a like entry made upon the judgment and lien docket in that county. The fee of the clerk of circuit court for making the entry is prescribed in s. 814.61 (5).

History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.62; 1981 c. 317; 1995 a. 224.

815.63 Sheriff's deed; writ of assistance. Whenever title has been perfected to any real estate sold on execution, or to any part or interest in the real estate, and the defendant in execution, or any other person claiming under the defendant by title accruing subsequently to the entry of the judgment in the judgment and lien docket upon which the judgment was issued, shall be in possession of that real estate or part or interest in that real estate, and, upon demand of the person in whom the title has been perfected, refuses to surrender the possession, the person may apply to the court from which the execution issued, by verified petition, for a writ of assistance to obtain possession. A copy of this petition, with a notice of the time and place when and where the petition will be presented, shall be served upon the person against whom the writ is issued at least 10 days before the petition is presented. The petition may be served as a summons in an action in the circuit court. The court may direct the writ to issue, and the writ shall be executed and return made in the same manner as upon a sale upon a judgment for foreclosure of a mortgage.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.63; 1977 c. 449; 1995 a. 224.

Cross-references: The general provision for writs of assistance is s. 815.11.

815.64 Judgment lien, how discharged on redemption. (1) When any judgment debtor or person claiming under the judgment debtor has redeemed the lands or any part of or interest in the lands sold on execution the person or officer to whom the redemption money was paid shall execute, acknowledge and deliver to the redeemer a certificate, attested by 2 witnesses, containing all of the following:

(a) A statement of the fact of the redemption.

(b) The date of the redemption.

(c) The amount of money paid to redeem the lands or interests in lands.

(d) A description of the lands or interests in the lands so redeemed.

(2) A certificate executed under sub. (1) may be recorded in the office of the register of deeds of the county in which the lands are situated, and shall be presumptive evidence of the redemption of the lands described in the certificate from the execution sale and from the lien of the judgment by virtue of which the execution sale was made.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.64; 1993 a. 486; 1997 a. 254.