

CHAPTER 550

EXECUTIONS, REDEMPTION, EXEMPTIONS

550.01	Enforcement of judgment.	550.23	Interest of purchaser subject to attachment or judgment.
550.02	Judgments; methods of enforcement.	550.24	Redemption of realty.
550.03	Kinds of execution.	550.25	Order of redemption.
550.04	Execution, how issued; contents.	550.26	Redemption, how made.
550.041	Summary execution of judgment debts.	550.27	Certificate of redemption; effect of redemption.
550.05	When returnable; inventory.	550.28	Sale irregular or judgment reversed.
550.06	Execution after death.	550.29	Redemption pending action to set aside execution sale.
550.07	Issuance of execution.	550.30	Creditor may redeem in certain cases.
550.08	Execution against property, how executed.	550.31	Creditor to file order with county recorder.
550.09	Levy on money.	550.32	Filing to determine priority.
550.10	Property levied on, lien.	550.33	Creditor may redeem when.
550.11	Levy on property subject to judgment lien; release.	550.34	Probate court to determine amount.
550.12	Levy on personalty.	550.35	Redemption.
550.13	Levy on bulky articles.	550.36	Stay of execution on money judgment.
550.14	Levy on other personal property.	550.365	Mediation notice and requirements for agricultural property.
550.141	Levy of earnings; indebtedness.	550.366	Judgments on debts related to agricultural property.
550.142	Public employees; wages, execution levy.	550.37	Property exempt.
550.15	Certificate to be furnished officer.	550.371	Exemptions in joint bankruptcy.
550.16	Levy on pledged or mortgaged chattels.	550.38	Veteran's pension, bonus, or compensation.
550.17	Levy on growing crops.	550.39	Exemption of insurance policies.
550.175	Execution on real property that includes homestead.	550.41	Levy on property in excess of exemption.
550.18	Notice of sale.	550.42	Waiver of agricultural debtor's rights.
550.19	Service on judgment debtor.		
550.20	Sale, when and how.		
550.21	Sale of corporate stock.		
550.22	Certificate of sale of realty.		

550.01 ENFORCEMENT OF JUDGMENT.

The party in whose favor a judgment is given, or the assignee of such judgment, may proceed to enforce the same, at any time within ten years after the entry thereof, in the manner provided by law.

History: (9416) RL s 4287

550.02 JUDGMENTS; METHODS OF ENFORCEMENT.

Where a judgment requires the payment of money, or the delivery of real or personal property, it 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 against whom it is given, or the person or officer who is required thereby or by law to obey the same. A person so served who refuses may be punished by the court as for contempt, and the individual's obedience thereto enforced.

History: (9417) RL s 4288; 1986 c 444

550.03 KINDS OF EXECUTION.

There shall be two kinds of executions, one against the property of the judgment debtor, and the other for the delivery of real or personal property, or such delivery with damages for detaining, or for taking and withholding, the same.

History: (9418) RL s 4289

550.04 EXECUTION, HOW ISSUED; CONTENTS.

The execution shall be under the seal of the court, subscribed by the court administrator, directed to the sheriff, to the coroner, if the sheriff be a party or interested, or to the judgment creditor or the judgment creditor's attorney, if issued under section 550.041, and endorsed by the party applying therefor or the party's

attorney. It shall refer intelligibly to the judgment, stating the court, the county where the judgment roll or transcript is filed, the names of the parties, the amount of the judgment, if it be for money, the amount actually due thereon, together with accrued interest to the date of issuance and the amount of daily interest accruing during the calendar year, and the time of docketing in the county to which the execution is issued. When issued to the sheriff or coroner, it shall require the officer substantially as follows:

(1) If it be against the property of the judgment debtor, to satisfy the judgment, with interest, out of the debtor's personal property, and, if sufficient personal property cannot be found, out of the real property belonging to the debtor on the day when the judgment was docketed in the county, or at any time thereafter not exceeding ten years;

(2) If real property has been attached, and judgment rendered in favor of the plaintiff in the same action, the execution thereon may also direct a sale of all the property which the defendant had in such real estate at the time it was so attached, or at any time after entry of judgment not exceeding ten years; in such case, if after the attachment the judgment creditor has paid taxes on the real property and filed with the court administrator the tax receipt, it shall be attached to the judgment roll, and the execution shall also state that it has been filed, and the date and amount thereof, and the date of filing; and, if the property be sold under the execution, the proceeds, after deducting the expenses of sale, shall be first applied to the payment of the amount so paid for taxes, with interest;

(3) If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, trustees, or tenants of real property, it shall require the officer to satisfy the judgment, with interest, out of such property;

(4) If it be against defendants jointly indebted on a contract, a part of whom only have been summoned in the action, it shall issue in form against all; but the party causing it to be issued, or the party's attorney, shall endorse thereon the names of those defendants who have not been summoned, and it shall not be levied upon the sole property of any such defendant; but it may be levied upon the personal property owned by such defendant as a partner with any or all of the other defendants;

(5) If it be for delivery of the possession of real or personal property, it shall require the officer to deliver possession of the same, particularly describing it, to the party entitled thereto; and it may, at the same time, require the officer to satisfy, out of the personal property of the party against whom the judgment was rendered, any costs, charges, damages, rents, or profits recovered thereby, and the value of the property for which the judgment was recovered, to be specified therein, if a delivery thereof cannot be had; and if sufficient personal property cannot be found, then out of the real property, as provided in clause (1), and in that respect it shall be deemed an execution against property.

History: (9419) *RL s 4290; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 273 s 4*

550.041 SUMMARY EXECUTION OF JUDGMENT DEBTS.

Subdivision 1. Coverage. When a judgment creditor proposes to make execution on a judgment debt from money owed to the judgment debtor by a third party, the execution may be made by the attorney for the judgment creditor or sheriff, or their agents, through a registered or certified letter or by personal service to the third party containing a copy of the execution. Upon receipt, the third party shall remit as much of the amount due under section 550.04, but not more than \$5,000, as the third party's own debt equals to the sheriff or attorney who shall proceed in all other respects like the sheriff making a similar execution. No more than \$5,000 may be recovered in an execution pursuant to this section.

Subd. 2. Exemption notice. If this section is used to enforce a judgment against a debtor who is a natural person by executing on funds of the judgment debtor held on deposit at any financial institution, the judgment creditor shall serve two copies of an exemption notice with the copy of the execution. The notice shall be substantially in the form set out in section 571.41, subdivision 7. Failure of the judgment creditor to

send the exemption notice renders the execution void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds which have previously been garnished in compliance with section 571.41, the judgment creditor is not required to serve an additional exemption notice. In that event, the execution shall only be effective as to the funds which were subject to the prior garnishment.

Subd. 3. Duty of financial institution; exemption; objection. Upon receipt of the execution and exemption notices, the financial institution shall attach and bind as much of the amount due under section 550.04 as its own debt equals. Within two business days after receipt of the judgment creditor's letter, the financial institution shall serve upon the judgment debtor two copies of the exemption notice. The exemption notice shall be served by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution prior to the expiration of 14 days after the exemption notices are mailed to the judgment debtor, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff or attorney who shall proceed in all other respects like the sheriff making a similar execution. If the judgment debtor elects to claim an exemption, the debtor shall complete the exemption notice, affix a signature under penalty of perjury, and deliver one copy to the financial institution and one copy to the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. Failure of the judgment debtor to serve the executed exemption notice does not constitute a waiver of any right the debtor may have to an exemption. Upon timely receipt of a claim of exemption, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff or attorney from funds not claimed to be exempt by the judgment debtor. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the correspondence containing the executed exemption notice mailed to the judgment creditor or the date of personal delivery of the executed exemption notice to the judgment creditor, unless within that time a timely objection to the exemption is interposed by the judgment creditor. Objection is made by mailing or delivering one copy of a written objection to the claim of exemption to the financial institution and one copy of the objection to the judgment debtor. Upon timely receipt of a written objection from the judgment creditor, the financial institution shall retain the funds claimed to be exempt. Unless the third party receives a notice of motion and motion from the judgment debtor asserting exemption rights within ten days after receipt of the objection, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff or attorney representing the judgment creditor. Either the judgment creditor or the judgment debtor may bring a motion to determine the validity of an exemption claim by following the procedure set out in section 571.41, subdivision 7. If a notice of motion and motion to determine the validity of a claim of exemption is received by the financial institution within the period provided, it shall retain the funds claimed to be exempt until otherwise ordered by a court. However, at any time during the procedure specified in this subdivision, the judgment debtor or the judgment creditor may, by a writing dated subsequent to the service of the execution, direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

Subd. 4. Subsequent proceedings; bad faith claims. If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment shall be modified to reflect assessment of damages, costs, and attorney fees. However,

MINNESOTA STATUTES 1988

9905

EXECUTIONS, REDEMPTION, EXEMPTIONS 550.08

if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption and may make any order necessary to protect the rights of those interested. No financial institution shall be liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim shall be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

Subd. 5. Costs; satisfaction. The attorney shall be allowed no costs from any party other than the judgment creditor for execution in accordance with this section. The attorney or judgment creditor making the execution shall endorse on it partial satisfaction by amount or the total satisfaction and return the original execution to the court administrator of that court, within ten days after the satisfaction, for filing without charge.

History: 1974 c 562 s 1; 1976 c 2 s 147; 1976 c 335 s 3; 1983 c 235 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82

550.05 WHEN RETURNABLE; INVENTORY.

Subdivision 1. The execution shall be made returnable, within 60 days after its receipt by the officer, to the court administrator with whom the judgment roll is filed; but if the officer having such execution levies upon any property before the expiration of such 60 days, the officer may retain the execution in the officer's hands until the officer sells such property in the manner prescribed by law. Upon demand of the judgment creditor or the creditor's attorney within such 60 days, the officer shall pay to the creditor all moneys collected upon execution in the officer's hands, after deducting the officer's fees. The officer shall make a full inventory of the property levied on, and return it with the execution.

Subd. 2. In case of satisfaction, either partial or in full, such officer shall make return thereof to the court administrator originally issuing such writ of execution and a duplicate copy thereof to the court administrator of the officer's own county, if execution is upon judgment transcribed from another county. The court administrator to whom such duplicate return is so made shall enter the record of such satisfaction upon the judgment docket and note in the margin thereof that such entry is made upon "duplicate return."

History: (9420) RL s 4291; 1945 c 107 s 1; 1986 c 444; 1Sp1986 c 3 art 1 s 82

550.06 EXECUTION AFTER DEATH.

After the expiration of one year from the death of a party against whom judgment has been rendered, execution thereon may be issued against any property upon which such judgment was a lien at the time of the party's death, and may be executed in the same manner and with like effect as if the party were living.

History: (9421) RL s 4292; 1986 c 444

550.07 ISSUANCE OF EXECUTION.

When the execution is against the personal property or money of the judgment debtor, it may be issued to the sheriff of any county from the district, county, or county municipal court where the judgment was originally docketed. When it requires the delivery of real property, it shall be issued to the sheriff of the county where the property or some part thereof is situated after the judgment is docketed in that county. Executions may be issued at the same time to different counties.

History: (9422) RL s 4293; 1980 c 388 s 1

550.08 EXECUTION AGAINST PROPERTY, HOW EXECUTED.

The officer shall execute the writ against the property of the judgment debtor by

levying upon the same, collecting the things in action, or selling the same if the court so orders, selling the other property, except as provided in section 550.09, and paying to the judgment creditor the proceeds, or so much thereof as will satisfy the execution.

History: (9423) *RL s 4294*

550.09 LEVY ON MONEY.

When coin of the United States, or bills or other evidence of debt issued by the United States or by any moneyed corporation and circulated as money, are seized upon execution, the officer shall pay and return the same as so much money collected.

History: (9424) *RL s 4295*

550.10 PROPERTY LEVIED ON, LIEN.

All property, real and personal, including rights and shares in the stock of corporations, money, book accounts, credits, negotiable instruments, and other evidences of indebtedness, may be levied upon and sold on execution. Until a levy, property not subject to the lien of the judgment is not affected by the execution.

History: (9425) *RL s 4296*

550.11 LEVY ON PROPERTY SUBJECT TO JUDGMENT LIEN; RELEASE.

It shall be deemed a sufficient levy upon property subject to the lien of the judgment if the officer make a minute on the execution, stating the time when it was delivered to the officer, and that at such time the officer levied upon such property, describing it. At the time of or during the progress of the execution sale, or prior thereto on the request of the judgment creditor, the officer may release such property, or so much thereof as has not been actually sold, from such levy, before full satisfaction of the judgment; and the judgment, or such part thereof as has not been actually satisfied by a payment or sale, and the lien thereof, shall not be affected by such levy and release, but shall remain in force as if no levy had been made.

History: (9426) *RL s 4297; 1986 c 444*

550.12 LEVY ON PERSONALTY.

Personal property capable of manual delivery shall be levied upon by the officer taking it into custody.

History: (9427) *RL s 4298*

550.13 LEVY ON BULKY ARTICLES.

When personal property, by reason of its bulk or other cause, cannot be immediately removed, it shall be a sufficient levy thereon if the officer, within three days thereafter, file in the appropriate filing office under the uniform commercial code, section 336.9-401, a certified copy of the execution, and of the officer's return and levy thereon. The officer shall pay the filing fee and include it in the charges.

History: (9428) *RL s 4299; 1923 c 420 s 1; 1965 c 812 s 23; 1986 c 444*

550.14 LEVY ON OTHER PERSONAL PROPERTY.

Subdivision 1. Property covered. Other personal property shall be levied on by leaving a certified copy of the execution, and a notice specifying the property levied on, with the person holding it; or, if a debt, with the debtor; or, if stock or an interest in stock of a corporation, with the president, secretary, treasurer, cashier, or managing agent of it.

Subd. 2. Exemption notice. If this section is used to enforce a judgment against a judgment debtor who is a natural person by executing on funds of the judgment debtor held on deposit at any financial institution, the judgment creditor shall cause to be served with the execution two copies of an exemption notice. The notice shall be substantially in the form set out in section 571.41, subdivision 7. If the judgment

creditor fails to supply the exemption notice to the sheriff, the sheriff shall take no action. Failure of the sheriff to serve the exemption notice shall render the execution void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds which have previously been garnished in compliance with section 571.41, the judgment creditor shall not be required to serve an additional exemption notice. In that event, the execution shall only be effective as to the funds which were subject to the prior garnishment.

Subd. 3. Duty of financial institution; exemption; objection. Upon receipt of the execution and exemption notices, the financial institution shall attach and bind as much of the amount due under section 550.04 as its own debt equals. Within two business days after receipt of the judgment creditor's execution of the execution and exemption notices, the financial institution shall serve upon the judgment debtor two copies of the exemption notice. The exemption notice shall be served by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the judgment debtor, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff. If the judgment debtor elects to claim an exemption, the debtor shall complete the exemption notice, affix a signature under penalty of perjury, and deliver one copy to the financial institution and one copy to the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. Failure of the judgment debtor to serve the executed exemption notice does not constitute a waiver of any right the debtor may have to an exemption. Upon timely receipt of a claim of exemption, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff from funds not claimed to be exempt by the judgment debtor. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the correspondence containing the executed exemption notice mailed to the judgment creditor, or the date of personal delivery of the executed exemption notice to the judgment creditor, unless within that time a written objection to the claim of exemption is interposed by the judgment creditor. Objection is made by mailing or delivering one copy of the objection to the financial institution, and one copy to the judgment debtor. Upon timely receipt of a written objection from the judgment creditor, the financial institution shall retain the funds claimed to be exempt. Unless the financial institution receives a notice of motion and motion from the judgment debtor asserting an exemption within ten days after receipt of the objection, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff. Either the judgment creditor or the judgment debtor may bring a motion to determine the validity of an exemption claim by following the procedure set out in section 571.41, subdivision 7. If a notice of motion and motion to determine the validity of a claim of exemption is received by the financial institution within the period provided, the financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court. However, at any time during the procedure specified in this subdivision, the judgment debtor or the judgment creditor may, by a writing dated subsequent to the service of the execution, direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

Subd. 4. Subsequent proceedings. If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment shall be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's

attorney for fees, the attorney's fee award shall be made directly to the attorney and an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption and may make any order necessary to protect the rights of those interested. No financial institution shall be liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim shall be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

History: (9429) *RL s 4300; 1983 c 235 s 3; 1986 c 444*

550.141 LEVY OF EARNINGS; INDEBTEDNESS.

Subdivision 1. Earnings may be levied upon in conformance with the procedures set forth in either sections 550.041 or 550.14 provided, however, the procedures set out in section 571.41, subdivision 5 are followed. Said levy shall attach all indebtedness owing by a third party to the debtor and all nonexempt disposable earnings earned or to be earned in the pay period within which the levy is served. If said levy attaches less than \$10, the third party shall not retain said sum.

Subd. 2. On any judgment prior to the first levy on earnings in the possession of an employer, the judgment creditor shall comply with the following notice requirements:

(1) Serve upon the judgment debtor no less than ten days prior to the service of the execution, a notice that such execution may be served on the debtor's employer. Said notice may be served in the manner permitted by section 571.41 and shall be substantially in the form set out in section 571.41. Bad faith assertion or disregard of a judgment debtor's claim of exemption shall be subject to the procedures, remedies, and penalties set out in section 571.41.

(2) Serve upon the judgment debtor's employer with the execution an execution disclosure form, that shall be substantially in the form set out in section 571.495, subdivision 3.

(3) Serve by mail upon the judgment debtor not later than five days after service is made on the debtor's employer, a copy of the execution and copies of all other papers served on the debtor's employer.

(4) The notice requirement in clause (1) shall not apply to a levy on wages being held by an employer due to a garnishment served pursuant to chapter 571.

Subd. 3. **Service of execution.** If the execution has not been served within one year after service of the notice, the judgment creditor shall serve another notice upon the judgment debtor prior to serving the execution on the debtor's employer. If more than one year has passed since the most recent execution, the judgment creditor shall serve another notice upon the judgment debtor no less than ten days prior to service of a subsequent execution on the debtor's employer.

History: *1976 c 335 s 4; 1983 c 235 s 4; 1986 c 444*

550.142 PUBLIC EMPLOYEES; WAGES, EXECUTION LEVY.

The salary or wages of any public employee or officer may be levied upon and disposed of on execution. Where the person is an officer, the writ shall be served upon the auditor, treasurer, or clerk of the subdivision or department of which the person is an officer. Where the person is an employee other than an officer, the writ shall be served upon the person in charge of the office or department in which the employee works.

When payment has been made pursuant to levy, a copy of the execution with certificate of satisfaction shall be delivered to the treasurer as a voucher for such payment.

History: *1953 c 110 s 2; 1973 c 123 art 5 s 7; 1976 c 335 s 5; 1986 c 444*

550.15 CERTIFICATE TO BE FURNISHED OFFICER.

When the officer, with a writ of attachment or an execution against the defendant, applies to any person mentioned in section 550.14 for the purpose of attaching or levying upon property mentioned therein, such person shall furnish the officer with a certificate showing the description and amount of the property of the judgment debtor held by such person or corporation, the number of rights or shares of such debtor in the stock of the corporation, with any dividend thereon, or the debt owing to the judgment debtor, with any encumbrance upon the property; and, on refusal so to do, such person may be required by the court to attend before it and be examined on oath concerning the same.

History: (9430) RL s 4301; 1986 c 444

550.16 LEVY ON PLEDGED OR MORTGAGED CHATTELS.

When personal property is pledged or mortgaged for the payment of money or the performance of any contract or agreement, the right and interest of the pledgor or mortgagor in such property may be sold on execution against the pledgor or mortgagor, and the purchaser shall acquire all the pledgor's or mortgagor's right and interest therein, and be entitled to the possession of such property, on complying with the terms and conditions of the pledge or mortgage.

History: (9301) 1913 c 63 s 1; 1955 c 220 s 1; 1986 c 444

550.17 LEVY ON GROWING CROPS.

A levy may be made upon any unharvested crops, but no sale shall be made until they are ripe or fit to be harvested. Any levy under an execution issued by a court shall be continued beyond its return day if necessary and its execution may be completed at any time within 30 days after the crops are ripe or fit to be harvested.

History: (9432) RL s 4303; 1983 c 359 s 78

550.175 EXECUTION ON REAL PROPERTY THAT INCLUDES HOMESTEAD.

Subdivision 1. Notification of homestead designation. If real property is to be sold on execution and the property contains a portion of the homestead of the debtor, the debtor must be notified by the executing creditor that the homestead may be sold and redeemed separately from the remaining property. The notice in subdivision 2 must be included in the notice of execution served on the debtor under section 550.19.

Subd. 2. Homestead designation notice. The following notice must be included in the execution notice of real property containing a homestead that is served on a debtor under section 550.19. The notice must be in 10 point capitalized letters.

"PART OF THE PROPERTY TO BE SOLD CONTAINS YOUR HOUSE. YOU MAY DESIGNATE THE AREA OF A HOMESTEAD TO BE SOLD AND REDEEMED SEPARATELY.

YOU MAY DESIGNATE THE HOUSE YOU OCCUPY AND ANY AMOUNT OF THE PROPERTY AS A HOMESTEAD. THE DESIGNATED HOMESTEAD PROPERTY MUST CONFORM TO THE LOCAL ZONING ORDINANCES AND BE COMPACT SO THAT IT DOES NOT UNREASONABLY REDUCE THE VALUE OF THE REMAINING PROPERTY.

YOU MUST PROVIDE THE CREDITOR CAUSING THIS PROPERTY TO BE SOLD, THE SHERIFF, AND THE COUNTY RECORDER WITH A COPY OF THE LEGAL DESCRIPTION OF THE HOMESTEAD YOU HAVE DESIGNATED BY TEN BUSINESS DAYS BEFORE THE DATE THE PROPERTY IS TO BE SOLD."

Subd. 3. Designation of homestead property. The debtor must designate the legal description of the homestead property to be sold separately. The homestead property designated may include any amount of the property. The designation must conform to local zoning, include the dwelling occupied by the debtor, and be compact so that it does not unreasonably affect the value of the remaining property. The debtor must

serve a copy of the designation on the executing creditor, the sheriff, and the county recorder by ten business days before the sale is scheduled.

Subd. 4. **Sale of property.** If the sheriff receives a homestead property designation under subdivision 3, the sheriff must offer and sell the designated homestead property, and the remaining property, separately.

Subd. 5. **Redemption.** The debtor may redeem the designated homestead, the remaining property, or the entire property including the homestead. The period of redemption for the designated homestead or the remaining property is the same as the period of redemption for the entire property including the designated homestead.

History: 1986 c 398 art 2 s 1

550.18 NOTICE OF SALE.

Before the sale of property on execution notice shall be given as follows:

(1) If the sale be of personal property, by giving ten days posted notice of the time and place thereof;

(2) If the sale be of real property, on execution or on judgment, by six weeks posted and published notice of the time and place thereof, describing the property with sufficient certainty to enable a person of common understanding to identify it.

An officer who sells without such notice shall forfeit \$100 to the party aggrieved, in addition to paying actual damages; and a person who before the sale or the satisfaction of the execution, and without the consent of the parties, takes down or defaces the notice posted, shall forfeit \$50; but the validity of the sale shall not be affected by either act, either as to third persons or parties to the action.

History: (9433) RL s 4304; 1986 c 444

550.19 SERVICE ON JUDGMENT DEBTOR.

At or before the time of posting notice of sale, the officer shall serve a copy of the execution and inventory, and of such notice, upon the judgment debtor, if the debtor be a resident of the county, in the manner required by law for the service of a summons in a civil action.

History: (9434) RL s 4305; 1986 c 444

550.20 SALE, WHEN AND HOW.

The sale shall be by auction, between 9 o'clock a.m. and sunset, in the county where the property or some part thereof is situated. If the sale is of personal property capable of manual delivery, it shall be within view of those who attend, and shall be sold in such parcels as are likely to bring the highest price. If of real property consisting of several known parcels, the parcels shall be sold separately; and, if a portion thereof is claimed by a third person who requires it to be sold separately, it shall be so sold. No more shall be sold than is sufficient to satisfy the execution, and neither the officer nor the officer's deputy may purchase.

History: (9435) RL s 4306; 1986 c 444

550.205 [Repealed, 1986 c 398 art 2 s 4]

550.21 SALE OF CORPORATE STOCK.

In case of the sale of any rights or shares in the stock of a corporation, the sheriff shall execute to the purchaser a certificate of such sale, which shall transfer to the purchaser all the rights of the judgment debtor in respect thereto.

History: (9436) RL s 4307; 1986 c 444

550.22 CERTIFICATE OF SALE OF REALTY.

When a sale of real property is made upon execution, or pursuant to a judgment or order of a court, unless otherwise specified therein, the officer shall execute to the purchaser a certificate containing:

- (1) A description of the execution, judgment, or order;
- (2) A description of the property;
- (3) The date of the sale and the name of the purchaser;
- (4) The price paid for each parcel separately;
- (5) If subject to redemption, the time allowed by law therefor.

Such certificate shall be executed, acknowledged, and recorded in the manner provided by law for a conveyance of real property, shall be prima facie evidence of the facts therein stated, and, upon expiration of the time for redemption, shall operate as a conveyance to the purchaser of all the right, title, and interest of the person whose property is sold in and to the same, at the date of the lien upon which the same was sold.

History: (9437) *RL s 4308*

550.23 INTEREST OF PURCHASER SUBJECT TO ATTACHMENT OR JUDGMENT.

The interest acquired upon any sale is subject to the lien of an attachment or judgment duly made or docketed against the person holding the same, as in case of real property, and may be attached or sold on execution in the same manner.

History: (9439) *RL s 4309*

550.24 REDEMPTION OF REALTY.

Upon the sale of real property, where the estate sold is less than a leasehold of two years' unexpired term, the sale is absolute; in all other cases the property sold, or any portion thereof which has been sold separately, is subject to redemption:

- (1) By the judgment debtor, the debtor's heirs or assigns;
- (2) By a creditor having a lien, legal or equitable, on the property or some part thereof, subsequent to that on which it was sold.

Creditors shall redeem in the order of their respective liens.

History: (9440) *RL s 4310; 1986 c 444*

550.25 ORDER OF REDEMPTION.

Within one year after the day of sale the judgment debtor, the debtor's heirs or assigns, may redeem by paying to the purchaser the amount for which the property was sold, with interest, and, if the purchaser be a creditor having a prior lien, the amount thereof, with interest. If no such redemption be made, the senior creditor may redeem within five days after the expiration of such year, and each subsequent creditor within five days after the time allowed all prior lienholders, by paying the aforesaid amount, and all liens prior to the creditor's own, held by the party from whom the creditor redeems; provided, that no creditor can redeem unless within such year the creditor files notice of an intention so to do with the court administrator of the court where the judgment is entered.

History: (9441) *RL s 4311; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

550.26 REDEMPTION, HOW MADE.

The person desiring to redeem shall pay to the person holding the right acquired under such sale, or for the person to the sheriff or the court administrator of the district court of the county in which the real property is situated, the amount required by law for such redemption, and shall produce to such person or officer the same documents required by law to be produced by a person desiring to redeem from a sale of real property under foreclosure of a mortgage by advertisement; and the person redeeming shall cause such documents to be filed with the county recorder as required in the case of redemption from such foreclosure sale.

History: (9442) *RL s 4312; 1976 c 181 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

550.27 CERTIFICATE OF REDEMPTION; EFFECT OF REDEMPTION.

The person or officer from whom such redemption is made shall execute to the person redeeming a certificate in substantially the same form as the certificate required by law to be executed on redemption from a sale of real property under foreclosure of a mortgage by advertisement; and all the provisions of law applicable to the recording and to the effect of such certificate, and to the effect of redemption of the property sold on such foreclosure sale, by the owner, the owner's heirs, personal representatives, or assigns, or by creditors, shall be applicable to the certificate required by this section, and to redemption made under this chapter.

History: (9443) RL s 4313; 1986 c 444

550.28 SALE IRREGULAR OR JUDGMENT REVERSED.

If the purchaser of real property sold on execution, or the purchaser's successor in interest, be evicted therefrom in consequence of irregularities in the proceedings concerning the sale, or of the reversal or discharge of the judgment, the purchaser or successor may recover from the judgment creditor the price paid, with interest. When such recovery is had in consequence of irregularity, the judgment creditor shall thereupon be entitled, within ten years after such eviction, to a new execution on the judgment for the price paid on the sale, with interest; and for that purpose the judgment shall be deemed valid against the judgment debtor, the debtor's personal representatives, heirs, or devisees, but not against a purchaser or encumbrancer in good faith who became such before a levy on such new execution.

History: (9444) RL s 4314; 1986 c 444

550.29 REDEMPTION PENDING ACTION TO SET ASIDE EXECUTION SALE.

When an action is brought to set aside an execution sale of land, and the time of redemption from such sale may expire before final judgment therein, any person having the right to redeem therefrom, for the purpose of saving such right, may deposit with the sheriff, before the time of redemption expires, the amount that will be necessary to redeem such premises at the date of such expiration, together with a bond in an amount and with sureties to be approved by such sheriff, conditioned to pay all interest that may accrue or be allowed on such deposit until final redemption as hereinafter provided. Such deposit and bond shall operate to extend the time of redemption for 30 days after the final determination of such action, during which time any person entitled by law to redeem may do so by paying to the sheriff the amount of such deposit with accrued interest. The deposit and bond shall be brought to the attention of the court by supplemental complaint in the action, and the judgment shall determine the validity of the execution sale, and the right of the parties to the moneys and bonds so deposited, which shall be paid and delivered by the sheriff as directed by such judgment, upon delivery to the sheriff of a certified copy thereof. The remedy herein provided shall be in addition to other remedies now existing.

History: (9445) RL s 4315; 1986 c 444

550.30 CREDITOR MAY REDEEM IN CERTAIN CASES.

Any creditor whose claim shall have been proved and allowed by a probate court of this state against the estate of a deceased debtor shall have the right, as a creditor of such decedent, to redeem the lands of the decedent from a sale thereof upon the foreclosure of a mortgage, or upon an execution, in the order and in the manner herein provided.

History: (9445-1) 1929 c 195 s 1

550.31 CREDITOR TO FILE ORDER WITH COUNTY RECORDER.

For the purpose of such redemption a creditor whose claim against the estate of a decedent shall have been so allowed shall file for record in the office of the county recorder of the county in which the real estate sought to be redeemed is situated, within

the year of redemption, a certified copy of the order of the probate court allowing such claim, and thereupon such claim shall constitute a lien upon the unexempt real estate of the decedent sold upon foreclosure or execution. The creditor shall also within such time file a notice in the office of such county recorder briefly describing the sale of the decedent's lands, a description of the lands sold, and stating, in a general way, the nature, date and amount of the claim of the creditor, and that the creditor intends to redeem such lands from the sale thereof described in such notice. In the case of redemption from execution sales such notice shall also be filed in the office of the court administrator of the district court in which such lands are situated.

History: (9445-2) 1929 c 195 s 2; 1976 c 181 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82

550.32 FILING TO DETERMINE PRIORITY.

In the event more than one such proved and allowed claim shall be so filed and recorded for the purposes of such redemption, then, as between the owners of such claims, their right to redeem shall be in the order in which such claims were originally filed, succession commencing with the oldest in point of time; that as to the creditors of the decedent having a lien or liens, either legal or equitable, upon the lands of a decedent and existing otherwise than by allowance in probate, the creditors of the decedent whose claims have been allowed in probate shall be subsequent or junior thereto.

History: (9445-3) 1929 c 195 s 3

550.33 CREDITOR MAY REDEEM WHEN.

If no redemption is made by the personal representative of the deceased debtor, or by the assigns of such decedent, within one year after the date of such sale, or within one year after the date of the confirmation of such sale, as the case may be, the senior creditor having a lien, legal or equitable, upon the premises sold upon the foreclosure of a mortgage or upon execution, and subsequent to the mortgage or judgment lien under or by reason of which the premises were sold, including the creditors of a deceased debtor whose claims have been perfected and recorded as herein provided, may redeem within five days after the expiration of said 12 months by payment of the amount required by law for that purpose; and each subsequent creditor having a lien in succession, according to priority of liens, within five days after the time allowed the prior lienholder, respectively, may redeem by paying the amount aforesaid and all liens prior to the creditor's own held by the person from whom redemption is made.

History: (9445-4) 1929 c 195 s 4; 1986 c 444

550.34 PROBATE COURT TO DETERMINE AMOUNT.

When any such creditor redeems from the foreclosure of a mortgage under the provisions of sections 550.30 to 550.35 the probate court shall determine the amount that shall be credited on the creditor's claim against the estate.

History: (9445-5) 1929 c 195 s 5; 1986 c 444

550.35 REDEMPTION.

Except as provided in sections 550.30 to 550.34, all such redemption shall have the force, and be governed by and subject to all of the requirements of the statutes relating to the redemption of real estate from mortgage and execution sales now or hereafter in force.

History: (9445-6) 1929 c 195 s 6

550.36 STAY OF EXECUTION ON MONEY JUDGMENT.

Execution of a judgment for the payment of money only shall be stayed for six months if, within ten days after the entry thereof, the judgment debtor shall file with the court administrator a bond, running to the judgment creditor, the creditor's

personal representatives and assigns, in double the amount of the judgment, to be approved by the court, and conditioned for the payment of the judgment, with interest during the time for which the stay is granted. Interest shall be computed in the same manner and at the same rate provided for interest on verdicts in section 549.09. Within two days thereafter notice that such bond has been filed, with a copy of the same, shall be served on the judgment creditor, if the creditor be a resident of the county, or upon the creditor's agent or attorney, if the creditor has one, and the judgment creditor may except to the sufficiency of the bond; and, upon the creditor's application upon notice or order to show cause, the court, if it find the bond insufficient, may order execution to issue notwithstanding the same, unless the judgment debtor give such further bond as it shall deem sufficient. If the condition of any such bond be not performed, the execution shall issue for the amount of the judgment, with interest and costs, against the judgment debtor and the sureties. When an execution issues against sureties the officer shall certify in the return what amount, if any, was collected from them and the date thereof. If a stay be granted after execution issued, any levy made thereon shall be released and the execution shall be returned and the reason noted by the officer.

History: (9446) *RL s 4316; 1979 c 105 s 2; 1979 c 289 s 5; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

550.365 MEDIATION NOTICE AND REQUIREMENTS FOR AGRICULTURAL PROPERTY.

Subdivision 1. Requirement. A person may not attach, execute on, levy on, or seize agricultural property subject to sections 583.20 to 583.32 that has secured a debt of more than \$5,000 unless: (1) a mediation notice is served on the judgment debtor and a copy served on the director and the debtor and creditor have completed mediation under sections 583.20 to 583.32; or (2) as otherwise allowed under sections 583.20 to 583.32.

Subd. 2. Contents. A mediation notice must contain the following notice with the blanks properly filled in.

"TO:(Name of Judgment Debtor)....

A JUDGMENT WAS ORDERED AGAINST YOU BY(Name of Court).... ON(Date of Judgment).

AS A JUDGMENT CREDITOR,(Name of Judgment Creditor).... INTENDS TO TAKE ACTION AGAINST THE AGRICULTURAL PROPERTY DESCRIBED AS(Description of Agricultural Property).... TO SATISFY THE JUDGMENT.

YOU HAVE THE RIGHT TO HAVE THE DEBT REVIEWED FOR MEDIATION. IF YOU REQUEST MEDIATION, A DEBT THAT IS IN DEFAULT WILL BE MEDIATED ONLY ONCE. IF YOU DO NOT REQUEST MEDIATION, THIS DEBT WILL NOT BE SUBJECT TO FUTURE MEDIATION IF THE SECURED PARTY ENFORCES THE DEBT.

IF YOU PARTICIPATE IN MEDIATION, THE DIRECTOR OF THE AGRICULTURAL EXTENSION SERVICE WILL PROVIDE AN ORIENTATION MEETING AND A FINANCIAL ANALYST TO HELP YOU PREPARE FINANCIAL INFORMATION. IF YOU DECIDE TO PARTICIPATE IN MEDIATION, IT WILL BE TO YOUR ADVANTAGE TO ASSEMBLE YOUR FARM FINANCE AND OPERATION RECORDS AND TO CONTACT A COUNTY EXTENSION OFFICE AS SOON AS POSSIBLE. MEDIATION WILL ATTEMPT TO ARRIVE AT AN AGREEMENT FOR HANDLING FUTURE FINANCIAL RELATIONS.

TO HAVE THE DEBT REVIEWED FOR MEDIATION YOU MUST FILE A MEDIATION REQUEST WITH THE DIRECTOR WITHIN 14 DAYS AFTER YOU RECEIVE THIS NOTICE. THE MEDIATION REQUEST FORM IS AVAILABLE AT ANY COUNTY RECORDER'S OR COUNTY EXTENSION OFFICE.

FROM:(Name and Address of Judgment Creditor)...."

History: 1986 c 398 art 1 s 2; 1987 c 292 s 6

NOTE: This section, as added by Laws 1986, chapter 398, article 1, section 2, is repealed July 1, 1989. See Laws 1986, chapter 398, article 1, section 18, as amended by Laws 1987, chapter 292, section 37.

550.366 JUDGMENTS ON DEBTS RELATED TO AGRICULTURAL PROPERTY.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given:

(a) **Agricultural property.** "Agricultural property" means personal property that is used in a farm operation.

(b) **Farm debtor.** "Farm debtor" means a person who has incurred debt while in the operation of a family farm, a family farm corporation, or an authorized farm corporation as defined in section 500.24, subdivision 2.

Subd. 2. **Limits on execution.** A judgment for the unpaid balance of a debt on agricultural property owed by a farm debtor may not be executed upon real or personal property after three years from the date the judgment was entered.

Subd. 3. **Attachment to newly acquired property.** A judgment for the unpaid balance of a debt on agricultural property owed by a farm debtor does not attach to real or personal property that is acquired by the farm debtor after the judgment is entered.

History: 1987 c 292 s 1

550.37 PROPERTY EXEMPT.

Subdivision 1. The property mentioned in this section is not liable to attachment, garnishment, or sale on any final process, issued from any court.

Subd. 2. The family Bible, library, and musical instruments.

Subd. 3. A seat or pew in any house or place of public worship and a lot in any burial ground.

Subd. 4. **Personal goods.** (a) All wearing apparel, one watch, utensils, and foodstuffs of the debtor and the debtor's family; and (b) household furniture, household appliances, phonographs, radio and television receivers of the debtor and the debtor's family, not exceeding \$4,500 in value. The exemption provided by this subdivision may not be waived except with regard to purchase money security interests. Except for a pawnbroker's possessory lien, a nonpurchase money security interest in the property exempt under this subdivision is void.

If a debtor has property of the type which would qualify for the exemption under clause (b) of this subdivision, of a value in excess of \$4,500 an itemized list of the exempt property, together with the value of each item listed, shall be attached to the security agreement at the time a security interest is taken, and a creditor may take a nonpurchase money security interest in the excess over \$4,500 by requiring the debtor to select the exemption in writing at the time the loan is made.

Subd. 4a. **Adjustment of dollar amounts.** (a) The dollar amounts in this section shall change periodically as provided in this subdivision to the extent of changes in the implicit price deflator for the gross national product, 1972 = 100, compiled by the United States Department of Commerce, and hereafter referred to as the index. The index for December, 1980, is the reference base index.

(b) The designated dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for December of the preceding year and the reference base index is ten percent or more. The portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts stated in this section.

(c) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the department of commerce. If the index is superseded, the index referred to in this section is the one represented by the department of commerce as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(d) The commissioner of commerce shall announce and publish:

(1) on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by paragraph (b); and

(2) promptly after the changes occur, changes in the index required by paragraph (c) including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(e) A person does not violate this chapter with respect to a transaction otherwise complying with this chapter if the person relies on dollar amounts either determined according to paragraph (b) or appearing in the last publication of the commissioner announcing the then current dollar amounts.

Subd. 5. Farm machines and implements used in farming operations by a debtor engaged principally in farming, livestock, farm produce, and standing crops, not exceeding \$10,000 in value. When a debtor is a partnership of spouses or a partnership of natural persons related to each other within the third degree of kindred according to the rules of the civil law, for the purposes of the exemption in this subdivision, the partners may elect to treat the assets of the partnership as assets of the individual partners.

Subd. 6. The tools, implements, machines, instruments, office furniture, stock in trade, and library reasonably necessary in the trade, business, or profession of the debtor, not exceeding \$5,000 in value.

Subd. 7. The total value of property selected by a debtor pursuant to subdivisions 5 and 6 shall not exceed \$10,000.

Subd. 8. The library and philosophical and chemical or other apparatus belonging to, and used for the instruction of youth in, any university, college, seminary of learning, or school which is indiscriminately open to the public.

Subd. 9. All money arising from any claim on account of the destruction of, or damage to, exempt property.

Subd. 10. All money received by, or payable to, a surviving spouse or child from insurance payable at the death of a spouse, or parent, not exceeding \$20,000. The \$20,000 exemption provided by this subdivision shall be increased by \$5,000 for each dependent of the surviving spouse or child.

Subd. 11. All money, relief, or other benefits payable or to be rendered by any police department association, fire department association, beneficiary association, or fraternal benefit association to any person entitled to assistance therefrom, or to any certificate holder thereof or beneficiary under any such certificate.

Subd. 12. A manufactured home, as defined in section 168.011, subdivision 8, which is actually inhabited as a home by the debtor.

Subd. 12a. One motor vehicle to the extent of a value not exceeding \$2,000.

Subd. 13. **Earnings.** All earnings not subject to garnishment by the provisions of section 571.55. A subsequent attachment, garnishment or levy of execution shall impound only that pay period's nonexempt disposable earnings not subject to a prior attachment, garnishment or levy of execution, but in no instance shall more than an individual's total nonexempt disposable earnings in that pay period be subject to attachment, garnishment or levy of execution. Garnishments shall impound the nonexempt disposable earnings in the order of their service upon the employer. The disposable earnings exempt from garnishment are exempt as a matter of right, whether claimed or not by the person to whom due. The exemptions may not be waived. The exempt disposable earnings are payable by the employer when due. The exempt disposable earnings shall also be exempt for 20 days after deposit in any financial institution, whether in a single or joint account. This 20-day exemption also applies to any contractual setoff or security interest asserted by a financial institution in which the earnings are deposited by the individual. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. As used in this section, the term "financial institution" includes

credit unions. Nothing in this paragraph shall void or supersede any valid assignment of earnings or transfer of funds held on account made prior to the attachment, garnishment, or levy of execution.

Subd. 14. Public assistance. All relief based on need, and the earnings or salary of a person who is a recipient of relief based on need, shall be exempt from all claims of creditors including any contractual setoff or security interest asserted by a financial institution. For the purposes of this chapter, relief based on need includes AFDC, general assistance medical care, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance. The salary or earnings of any debtor who is or has been a recipient of relief based on need, or an inmate of a correctional institution shall, upon the debtor's return to private employment or farming after having been a recipient of relief based on need, or an inmate of a correctional institution, be exempt from attachment, garnishment, or levy of execution for a period of six months after the debtor's return to employment or farming and after all public assistance has been terminated. The exemption provisions contained in this subdivision also apply for 60 days after deposit in any financial institution, whether in a single or joint account. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. Agencies distributing relief and the correctional institutions shall, at the request of creditors, inform them whether or not any debtor has been a recipient of relief based on need, or an inmate of a correctional institution, within the preceding six months.

Subd. 15. The earnings of the minor child of any debtor or the proceeds thereof, by reason of any liability of such debtor not contracted for the special benefit of such minor child.

Subd. 16. The claim for damages recoverable by any person by reason of a levy upon or sale under execution of the person's exempt personal property, or by reason of the wrongful taking or detention of such property by any person, and any judgment recovered for such damages.

Subd. 17. All articles exempted by this section shall be selected by the debtor, the debtor's agent, or legal representative.

Subd. 18. The exemptions provided for in subdivisions 3 to 15 extend only to debtors who are natural persons except as provided in subdivision 5 for partnerships.

Subd. 19. Waiver. The exemption of the property listed in subdivisions 2, 3, and 5 to 12a may not be waived except by a statement in substantially the following form, in bold face type of a minimum size of 12 points, signed and dated by the debtor at the time of the execution of the contract surrendering the exemption, immediately adjacent to the listing of the property: "I understand that some or all of the above property is normally protected by law from the claims of creditors, and I voluntarily give up my right to that protection for the above listed property with respect to claims arising out of this contract."

Subd. 20. Traceable funds. The exemption of funds from creditors' claims, provided by subdivisions 9, 10, 11, 15, and 24, shall not be affected by the subsequent deposit of the funds in a bank or any other financial institution, whether in a single or joint account, if the funds are traceable to their exempt source. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. No bank or other financial institution shall be liable for damages for complying with process duly issued out of any court for the collection of a debt even if the funds affected by the process are subsequently determined to have been exempt.

Subd. 21. For the purpose of this section "value" means current fair market value.

Subd. 22. Rights of action for injuries to the person of the debtor or of a relative whether or not resulting in death.

Subd. 23. The debtor's aggregate interest not to exceed in value \$4,000 in any accrued dividend or interest under or loan value of any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

Subd. 24. Employee benefits. The debtor's right to receive present or future payments, or payments received by the debtor, under a stock bonus, pension, profit sharing, annuity, individual retirement account, individual retirement annuity, simplified employee pension, or similar plan or contract on account of illness, disability, death, age, or length of service.

History: (9447) *RL s 4317; 1909 c 12 s 1; 1913 c 375 s 1; 1915 c 202 s 1; 1923 c 154 s 1; 1923 c 350 s 1; 1927 c 272; 1933 c 350 s 1; 1939 c 263; 1941 c 351; 1949 c 282 s 1; 1951 c 673 s 1; 1955 c 859 s 1; 1961 c 568 s 1; 1967 c 835 s 1; 1969 c 1142 s 23,24; 1976 c 335 s 6-10; 1977 c 180 s 3; 1980 c 550 s 1-4; 1980 c 599 s 6-8; 1981 c 7 s 1; 1981 c 322 s 1; 1981 c 365 s 9; 1983 c 235 s 5-11; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1985 c 306 s 2-6; 1Sp1985 c 1 s 24; 1986 c 444; 1988 c 490 s 2-4*

550.371 EXEMPTIONS IN JOINT BANKRUPTCY.

Subdivision 1. Applicable law. Except as provided in this section, the exemptions set forth in subsection (d) of section 522 of the Bankruptcy Act, United States Code, title 11, section 522(d), shall be available to residents of this state.

Subd. 2. Joint petition. When a husband and wife are joined in a petition for bankruptcy, they may jointly elect to utilize either the applicable exemption provisions pursuant to Minnesota law or pursuant to subsection (d) of section 522 of the Bankruptcy Act, United States Code, title 11, section 522(d), but not both.

Subd. 3. Individual petition. When a petition for bankruptcy is filed individually, and not jointly, for a husband or a wife, (a) one spouse shall not claim any exemption pursuant to Minnesota law for a period of three years from the date of filing if the other spouse has claimed any exemption under subsection (d) of section 522 of the Bankruptcy Act, United States Code, title 11, section 522(d); and (b) one spouse shall not claim any exemption pursuant to subsection (d) of section 522 of the Bankruptcy Act, United States Code, title 11, section 522(d), for a period of three years from the date of filing if the other spouse has claimed any exemption pursuant to Minnesota law.

Subd. 4. Marital status determined. For the purposes of this section, persons shall be considered to be husband and wife if they are married to each other at the time of the filing of the first individual or joint petition for bankruptcy by either of them unless a decree of separation or temporary order of separation of the parties is issued prior to the time the petition is filed.

History: 1982 c 461 s 1

550.38 VETERAN'S PENSION, BONUS, OR COMPENSATION.

All moneys paid to any person as a veteran's pension, bonus, adjusted compensation, allotment, or other benefit by the state of Minnesota or by the United States are exempt from, and shall not be liable to, attachment, garnishment, seizure, or sale on any final process issued out of any court for the period of one year after receipt thereof.

History: (9447-1) *Ex1936 c 112*

550.39 EXEMPTION OF INSURANCE POLICIES.

The net amount payable to any insured or to any beneficiary under any policy of accident or disability insurance or under accident or disability clauses attached to any policy of life insurance shall be exempt and free and clear from the claims of all creditors of such insured or such beneficiary and from all legal and judicial processes of execution, attachment, garnishment, or otherwise.

History: (9447-2) *1937 c 191 s 1*

550.40 [Renumbered 354.231]

550.41 LEVY ON PROPERTY IN EXCESS OF EXEMPTION.

When the officer holding an execution is of the opinion that the judgment debtor

MINNESOTA STATUTES 1988

9919

EXECUTIONS, REDEMPTION, EXEMPTIONS 550.42

has more property of the classes specified in section 550.37 than is exempt the officer may levy upon the whole of any one class and make an inventory thereof and cause the same to be appraised on oath by two disinterested persons. If such appraisal exceeds the amount exempt of that class, the debtor may forthwith select of such property an amount not exceeding in appraised value the amount exempt, and the balance shall be applied by the officer as in other cases. If the debtor does not make such selection, the officer may make the same. If one or more indivisible articles of such class is of greater value than the whole amount exempt of that class, the officer shall sell the same and, after paying to the debtor the amount thereof exempt, shall apply the residue in discharge of the process.

History: (9448) *RL s 4318; 1986 c 444*

550.42 WAIVER OF AGRICULTURAL DEBTOR'S RIGHTS.

Subdivision 1. Waiver is void. (a) A waiver of statutory rights of a debtor in a contract, loan agreement, or security agreement as a condition for a loan of money for agricultural production is void unless the waiver is expressly authorized by law.

(b) A waiver of mediation rights under chapter 583, the right to an offer under section 500.24, subdivision 6, or the debtor's statutory rights under chapter 580, 581, or 582 for a mortgage on agricultural property, is void unless the waiver is expressly authorized by law.

Subd. 2. Penalty. A person, corporation, financial institution, or other legal entity is liable to a debtor for up to \$2,500 plus attorney fees if the person or entity:

(1) requires a waiver subject to subdivision 1 in a contract, loan agreement, or security agreement, and does not acknowledge that the waiver subject to subdivision 1 is void; or

(2) attempts to enforce a waiver that is void under subdivision 1.

History: 1987 c 396 art 3 s 1