

the state shall pay said interest out of the general fund, which general fund shall be repaid such interest payments out of the first moneys paid into the said "University of Washington fund."

SEC. 4. In order to refund the moneys appropriated for university purposes to the general fund, as herein specified, at as early a date as possible, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after the date of its approval by the governor.

Passed the senate March 5, 1895.

Passed the house March 11, 1895.

Approved March 13, 1895.

CHAPTER LXIV.

[S. B. No. 28.]

DEFINING A HOMESTEAD.

AN ACT defining a homestead, and providing for the manner of the selection of the same.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. The homestead consists of the dwelling house, in which the claimant resides, and the land on which the same is situated, selected as in this act provided.

SEC. 2. If the claimant be married the homestead may be selected from the community property, or the separate property of the husband, or, with the consent of the wife, from her separate property. When the claimant is not married, but is the head of a family within the meaning of section 25 of this act, the homestead may be selected from any of his or her property.

SEC. 3. The homestead cannot be selected from the separate property of the wife without her consent, shown by her making the declaration of homestead.

SEC. 4. The homestead is exempt from execution or forced sale, except as in this act provided.

SEC. 5. The homestead is subject to execution or forced sale in satisfaction of judgments obtained —

1. On debts secured by mechanics', laborers' or vendors' liens upon the premises.

2. On debts secured by mortgages on the premises executed and acknowledged by the husband and wife, or by an unmarried claimant.

SEC. 6. The homestead of a married person cannot be conveyed or encumbered unless the instrument by which it is conveyed or encumbered is executed and acknowledged by both husband and wife.

SEC. 7. A homestead can be abandoned only by a declaration of abandonment, or a grant thereof, executed and acknowledged —

1. By the husband and wife if the claimant is married.

2. By the claimant, if unmarried.

SEC. 8. A declaration of abandonment is effectual only from the time it is filed in the office in which the homestead was recorded.

SEC. 9. When the execution for the enforcement of a judgment obtained in a case not within the classes enumerated in section five is levied upon the homestead, the judgment creditor may apply to the superior court of the county in which the homestead is situated for the appointment of persons to appraise the value thereof.

SEC. 10. The application must be made upon verified petition, showing —

1. The fact that an execution has been levied upon the homestead.

2. The name of the claimant.

3. That the value of the homestead exceeds the amount of the homestead exemption.

SEC. 11. The petition must be filed with the clerk of the superior court.

SEC. 12. A copy of the petition, with a notice of the time and place of hearing, must be served upon the claimant at least ten days before the hearing.

SEC. 13. At the hearing the judge may, upon the proof of the service of a copy of the petition and notice and of the facts stated in the petition, appoint three disinterested

resident freeholders of the county to appraise the value of the homestead.

SEC. 14. The persons appointed, before entering upon the performance of their duties, must take an oath to faithfully perform the same.

SEC. 15. They must view the premises and appraise the value thereof, and if the appraised value exceeds the homestead exemption, they must determine whether the land claimed can be divided without material injury.

SEC. 16. Within fifteen days after their appointment they must make to the court a report in writing, which report must show the appraised value and their determination upon the matter of a division of the land claimed.

SEC. 17. If, from the report, it appears to the court that the land claimed can be divided without material injury the court must, by an order, direct the appraisers to set off to the claimant so much of the land including the residence, as will amount in value to the homestead exemption, and the execution may be enforced against the remainder of the land.

SEC. 18. If, from the report, it appears to the court that the land claimed exceeds in value the amount of the homestead exemption and that it cannot be divided, the court must make an order directing its sale under the execution.

SEC. 19. At such sale no bid must be received unless it exceeds the amount of the homestead exemption.

SEC. 20. If the sale is made, the proceeds thereof, to the amount of the homestead exemption, must be paid to the claimant and the balance applied to the satisfaction of the execution.

SEC. 21. The money paid to the claimant is entitled to the same protection against legal process and the voluntary disposition of the husband which the law gives to the homestead.

SEC. 22. The compensation of the appraisers shall be two dollars per day each.

SEC. 23. The execution creditor must pay the costs of these proceedings in the first instance; but in the case provided for in sections seventeen and eighteen the amount so

paid must be added as costs on execution, and collected accordingly.

SEC. 24. Homesteads may be selected and claimed in lands and tenements with the improvements thereon, not exceeding in value the sum of two thousand dollars. The premises thus included in the homestead must be actually intended and used for a home for the claimants, and shall not be devoted exclusively to any other purposes.

SEC. 25. The phrase "head of the family," as used in this act, includes within its meaning —

1. The husband or wife, when the claimant is a married person.

2. Every person who has residing on the premises with him or her, and under his or her care and maintenance, either —

1. His or her minor child or the minor child of his or her deceased wife or husband.

2. A minor brother or sister or the minor child of a deceased brother or sister.

3. A father, mother, grandmother or grandfather.

4. The father, mother, grandfather or grandmother of deceased husband or wife.

5. An unmarried sister, or any other of the relatives mentioned in this section who has attained the age of majority, and are unable to take care of or support themselves.

SEC. 26. In case of a homestead; if either the husband or wife shall become hopelessly insane, upon application of the husband or wife not insane to the superior court of the county in which the homestead is situated, and upon due proof of such insanity, the court may make an order permitting the husband or wife not insane to sell and convey or mortgage such homestead.

SEC. 27. Notice of the application for such order shall be given by publication of the same in a newspaper published in the county in which such homestead is situated, if there be a newspaper published therein, once each week for three successive weeks prior to the hearing of such application, and a copy of such notice shall be served upon the nearest male relative of such insane husband or wife,

resident in this state, at least three weeks prior to such application, and in case there be no such male relative known to the applicant, a copy of such notice shall be served upon the prosecuting attorney of the county in which such homestead is situated; and it is hereby made the duty of such prosecuting attorney, upon being served with a copy of such notice, to appear in court and see that such application is made in good faith, and that the proceedings thereon are fairly conducted.

SEC. 28. Thirty days before the hearing of any application under the provisions of this act, the applicant shall present and file in the court in which such application is to be heard a petition for the order mentioned, subscribed and sworn to by the applicant, setting forth the name and age of the insane husband or wife; a description of the premises constituting the homestead; the value of the same; the county in which it is situated; and such facts in addition to that of the insanity of the husband or wife relating to the circumstances and necessities of the applicant and his or her family as he or she may rely upon in support of the petition.

SEC. 29. If the court shall make the order provided for in the twenty-sixth section of this act, the same shall be entered upon the minutes of the court, and thereafter any sale, conveyance [or] mortgage made in pursuance of such order shall be as valid and effectual as if the property affected thereby was the absolute property of the person making such sale, conveyance or mortgage in fee simple.

SEC. 30. In order to select a homestead the husband or other head of a family, or in case the husband has not made such selection, the wife must execute and acknowledge, in the same manner as a grant of real property is acknowledged, a declaration of homestead, and file the same for record.

SEC. 31. The declaration of homestead must contain —

1. A statement showing that the person making it is the head of a family; or when the declaration is made by the wife, showing that her husband has not made such declaration, and that she therefore makes the declaration for their joint benefit.

2. A statement that the person making it is residing on the premises or has purchased the same for a homestead and intends to reside thereon and claims them as a homestead.

3. A description of the premises.

4. An estimate of their actual cash value.

SEC. 32. The declaration must be recorded in the office of the auditor of the county in which the land is situated.

SEC. 33. From and after the time the declaration is filed for record the premises therein described constitute a homestead. If the selection was made by a married person from the community property, the land, on the death of either of the spouses, vests in the survivor, subject to no other liability than such as exists or has been created under the provisions of this act; in other cases, upon the death of the person whose property was selected as a homestead, it shall go to his heirs or devisees, subject to the power of the superior court to assign the same for a limited period to the family of the decedent; but in no case shall it be held liable for the debts of the owner, except as provided in this act.

Passed the senate March 5, 1895.

Passed the house March 8, 1895.

Approved March 13, 1895.

CHAPTER LXV.

[S. B. No. 62.]

RELATING TO SPECIAL PROCEEDINGS OF A CIVIL NATURE.

AN ACT regulating special proceedings of a civil nature.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. The party prosecuting a special proceeding may be known as the plaintiff and the adverse party as the defendant.