

CHAPTER XLIX.

[H. B. No. 281.]

EXEMPTING THE PROCEEDS OF LIFE INSURANCE.

AN ACT amending an act entitled "An act exempting the proceeds of life insurance from liability for debt, and declaring an emergency," approved March 20, 1895.

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

SECTION 1. That section 1 of an act entitled "An act exempting the proceeds of life insurance from liability for debt, and declaring an emergency," approved March 20, 1895, is amended to read as follows: Section 1. That the proceeds or avails of all life and accident insurance shall be exempt from all liability for any debt.

SEC. 2. An emergency exists, and this act shall take effect immediately.

Passed the House February 24, 1897.

Passed the Senate March 6, 1897.

Approved by the Governor March 10, 1897.

CHAPTER L.

[S. B. No. 148.]

RELATING TO SALE OF PROPERTY UNDER EXECUTION.

AN ACT relating to the sale of property under execution and decrees, and the confirmation of sheriffs' sales, and repealing sections 511, 512, 513, 514, 515, 516, 517, 518, 519, 520 and 521 of volume 2 of Hill's Annotated Statutes and Codes of the State of Washington, relating to the redemption of real estate sold on decree of foreclosure and on execution.

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

SECTION 1. Before the sale of property on execution, notice thereof shall be given as follows: *First.* In the case of personal property, by posting written or printed notices of the time and place of sale in three public places

Notice given
of sale.

of the county where the sale is to take place, not less than ten days successively. *Second.* When the execution is against the real property of the judgment debtor, it shall be executed as follows:

1. The sheriff shall endorse upon the writ of execution or attach thereto a description of the property levied upon.

2. He shall file with the clerk of the court where the property is situated, and with the clerk of the court issuing the writ, a copy of the writ, with such description attached to or endorsed thereon.

3. One year from the time of filing of such levy, the sheriff shall give notice that the property levied upon will be sold at public auction, in satisfaction of the judgment.

4. The sheriff shall post notices of such sale in three public places within the county where the sale is to take place, one of which shall be in a conspicuous place on the property to be sold, four weeks prior to date of sale, and publish a copy thereof once a week for the same period in the official paper of the county, if there be one, or if there be none, then in a newspaper published nearest to the place of sale.

SEC. 2. All sales of real estate upon execution, or by order of court, shall be made by auction on Saturday between nine o'clock in the morning and four o'clock in the afternoon. After sufficient property has been sold to satisfy the execution no more shall be sold. Neither the officer holding the execution, nor his deputy, shall become a purchaser or be interested in any purchase at such sale. When the sale is of personal property, capable of manual delivery, and not in the possession of a third person, association or corporation, it shall be within view of those who attend the sale, and be sold in such parcels as, in the judgment of the officer conducting the sale, are likely to bring the highest price; and when the sale is of real property, and consisting of several known lots or parcels, they shall be sold separately when demanded by the said judgment debtor or subsequent encumbrancer. Sales of real property shall be made at the court house door.

SEC. 3. Before giving notice of the sale of the property on execution or order of the court, it shall be the duty of

When levy is on real estate.

Sale one year after levy.

Notice of sale posted and published.

Time of sale.

Officers may not buy.

Sale of personal property.

Sale of real property.

Judgment creditor to fix value and notify judgment debtor.

the judgment creditor, or his successor in interest, when the judgment is to be satisfied in whole or in part from real estate, or any interest therein, to deliver to the sheriff a true statement, signed by himself or attorney, containing a description of the property levied upon, the estimated value of each separate description, and serve a copy upon the judgment debtor or his attorney.

Judgment debtor may except to valuation.

SEC. 4. The judgment debtor, his successors or assigns, may, within ten days after receiving notice of such valuation made by the judgment creditor, except to the valuation of the said real property or for any part thereof. Such exception shall be in writing and shall contain the estimate of the judgment debtor of the value of the property, and shall be served on the judgment creditor or his attorneys and filed with the sheriff having the execution for service. Such valuation shall be the minimum amount for which the property may be sold, unless an appraisement of the same be demanded.

Judgment creditor may require appraisement.

SEC. 5. If the judgment creditor is dissatisfied with the valuation placed on the said property by the judgment debtor, within two days from the date of notice thereof, he may demand in writing of the clerk an appraisement, and it shall be the duty of the clerk in the county wherein such execution is to be served to nominate two disinterested freeholders having the qualifications of jurors, and shall administer to them and the officers serving the writ an oath impartially to appraise the interest of the judgment debtor in the property at its fair value. The sheriff or his deputy having the execution for service and the appraisers shall appraise the property at its fair cash valuation, which shall not be less than the estimate made by the judgment creditors. The appraisement, to be effectual, shall be signed by the appraisers or a majority thereof.

Appraisers.

Manner of appraisement.

SEC. 6. The appraisers, for the purpose of appraisement, shall deduct from the value of the real estate, lands and tenements, the amount of all prior liens, encumbrances and taxes, due or otherwise, against the same. The deduction shall be specifically enumerated and the sum remaining shall be the real value of the interest therein of the judgment debtor.

SEC. 7. The judgment creditor shall deliver to the sheriff a correct statement of all prior liens and encumbrances or taxes against the property to be sold, as the same appear of record.

Statement of prior liens.

SEC. 8. The court in which the execution was issued, may set aside or vacate the report of the appraisers in whole or in part, or may order a new appraisal, when the same is void, unfair or irregular, or for misconduct of any of the parties affecting the material interest of the parties, upon three days notice of any party interested therein.

Court may review appraisalment.

SEC. 9. All notices provided for in this act shall be served personally upon the attorney of record of any of the parties, and when the same cannot be served personally, service may be made by depositing in the postoffice, the notice duly registered and addressed to the person or persons to be served, and when the address is unknown and cannot, after due diligence, be found, the notice may be deposited with the clerk of the court out of which execution issues.

Notices, manner of service.

SEC. 10. No property shall be sold for a sum less than eighty per cent. of the appraised value thereof, except that when property is not capable of partition or division, then the same may be sold for the amount of the judgment debt or demand. When the property is capable of partition, then so much thereof as may be sufficient only shall be sold as will satisfy the judgment. In case of foreclosure of mortgages or other liens, nothing shall prevent the sale of the entire premises included within the mortgage or lien.

No sale at less than eighty per cent. of appraisalment.

SEC. 11. When a judgment operates as an encumbrance or lien on any real estate, and there is no execution issued, the judgment debtor, his successors or assigns, or any redemptioner, may have the same appraised, and for such purpose, the clerk of the court of the county, wherein such lands or tenements are situated, shall appoint three appraisers to appraise the same. The appraisers shall have like qualifications and shall proceed as in this act provided in appraisements of real estate subject to the sale under execution. The judgment debtor, his successors or as-

Judgment debtor may discharge the judgment lien in certain cases without sale.

signs, or any redemptioner, may, after ten days' notice to the judgment creditor or his attorney, and if no sale thereof be demanded by the creditor pay to the judgment creditor having the prior lien the amount of such appraisement, and such real estate shall be free from such lien and shall not again be subject to the same judgment.

Pay of appraisers.

SEC. 12. The appraisers nominated by the clerk shall receive for their services the sum of one dollar (\$1) each day for the time actually spent in making the appraisement, and shall receive mileage not exceeding five cents a mile each way from the court house to the place of appraisement. The party demanding the appraisement may be required to advance the costs before report of the appraisers is filed. The appraisers shall file with the clerk of the court a report of their doings within ten days after making their appraisement and not less than twenty days prior to the date of the sale.

Costs advanced.

Report filed.

Sale before one year if judgment debtor elect.

SEC. 13. The judgment debtor may at any time cause any property levied upon to be sold before the expiration of the year and the same shall be proceeded with as if the full year had expired.

Confirmation proceedings.

SEC. 14. Upon the return of any sale of real estate or execution, the clerk shall enter the cause on which the execution issued on the motion docket by its title, and mark opposite the same "Sale of land for confirmation," and the following proceedings shall be had:

After thirty days.

1. The plaintiff or purchaser, at any time after thirty days from the filing of such return, shall be entitled, on motion therefor, to have an order confirming the sale, unless the judgment debtor, or in case of his death, his representatives, shall file with the clerk three days before the time of hearing, his objections thereto.

Debtor may object.

2. If such objection be filed the court shall, notwithstanding, allow the order confirming the sale, unless on the hearing of the motion it shall satisfactorily appear that there were substantial irregularities in the proceedings concerning the sale, to the probable loss or injury of the party objecting. In the latter case the court shall disallow the motion, and direct that the property be resold in

whole or in part, as the case may be, as upon an execution received of that date.

3. Upon the return of the execution, the sheriff shall pay the proceeds of the sale to the clerk, who shall retain the same until confirmation of the sale, and he shall then apply the same, or so much thereof as may be necessary, in satisfaction of the judgment. Proceeds paid to the clerk.

4. If the sale be not confirmed and a resale made, the bid of the purchaser at the former sale shall be deemed to be renewed and continue in force, and no bid shall be taken except of a greater amount than the bid at the former sale. If the motion to confirm be not heard and decided at the time set for hearing, it may be continued and heard and determined before the judge thereafter. An order confirming a sale shall be a conclusive determination of the regularity of the proceedings concerning such sale as to all persons in any other action, suit or proceeding whatever. Purchaser's bid in case of re-sale. Order of confirmation conclusive as to regularity on all parties to proceedings.

5. If after the satisfaction of a judgment there be any proceeds of the sale remaining, the clerk shall pay such proceeds to the judgment debtor or his representatives, as the case may be, at any time before the order is made upon the motion to confirm the sale, provided such party file with the clerk a waiver of all objections made or to be made to the proceedings concerning the sale, but if the sale be confirmed, such proceeds shall be paid to such party, of course, otherwise they shall remain in the custody of the clerk until the sale of the property has been disposed of. Disposition of proceeds of sale.

SEC. 15. The judgment debtor, his successors or assigns, or any redemptioner, may redeem any real estate sold by virtue of law at any time before the execution of the deed, at the price for which the same was sold, by paying to the clerk of the court issuing the execution, the amount for which the same was sold, with interest at the rate of ten (10) per cent. per annum from the time of sale to the time of redemption. And when property is so redeemed it shall not again be subject to execution or sale for the same claim, judgment or demand, or for any deficiency thereof. Redemption.

SEC. 16. In all cases where an appraisalment is had of real estate the sheriff shall, upon confirmation of the sale, execute to the purchaser a deed to the property sold, and Sheriff's deed.

in all other cases the deed shall not be executed till the expiration of one year from the confirmation of sale. And such deed, when executed and delivered, shall convey to the purchaser all right, title, claim and interest of the judgment debtor in and to the premises had at the time of the taking effect of the lien or subsequent thereto.

Certain excep-
tions to the
operation
of this act.

SEC. 17. Nothing contained in this act shall in any wise apply to or affect the sale of any real estate belonging to the state or any subdivision thereof, or municipality therein, nor shall anything in this act apply to judgments recovered against individuals or private corporations by the state, or any county, municipality or other subdivision thereof, but all real estate, the property of individuals or private corporations indebted to the state, or any county, municipality or other subdivision thereof, for any debts or taxes, or in any other manner, shall be sold without valuation.

Other ex-
ceptions.

SEC. 18. This act shall not apply to judgments entered prior to the taking effect thereof, nor to executions which shall issue thereupon, but proceedings thereunder shall be had in all respects, in the manner now provided by law, and redemptioners shall have the same right to redeem property sold upon judgments or decrees rendered prior to the taking effect of this act, as if this act had not been passed.

SEC. 19. Sections 511, 512, 513, 514, 515, 516, 517, 518, 519, 520 and 521 of volume 2 of Hill's Annotated Statutes and Codes of the State of Washington, relating to the redemption of real estate sold on decrees of foreclosure and on execution are hereby repealed.

Passed the Senate March 1, 1897.

Passed the House March 2, 1897.

Approved by the Governor March 10, 1897.