

account of his liability incurred under RCW 4.24.100, for any act of his tenant, may, in a civil action, recover of such tenant the money so paid."

Explanatory note.

and is expressly dependent upon the existence of RCW 4.24.100. RCW 4.24.100 having been repealed by 1955 c 372 § 1, it appears that RCW 4.24.110 is no longer operative and should be repealed. Subdivisions (2) through (39) are herein repealed since these statutes have been superseded and abrogated by RULES OF COURT, Appeal - Rule 65 (effective January 3, 1956); see also Appeal - Rules 35,36,34,37,38,40,39; Pleading - Rule 17.

CHAPTER 8.

[H. B. 14.]

ENFORCEMENT OF JUDGMENTS.

AN ACT relating to civil procedure; amending section 1, chapter 25, Laws of 1929 and RCW 6.04.030; amending section 7, chapter 25, Laws of 1929 and RCW 6.04.070; amending section 499, page 220, Laws of 1854, section 694, page 174, Laws of 1869, section 757, page 152, Laws of 1877, section 752, Code 1881 and RCW 6.04.120; amending section 4, page 378, Laws of 1854, section 334, page 85, Laws of 1869, section 342, page 71, Laws of 1877, section 338, Code 1881 and RCW 6.08.030; amending section 256, page 179, Laws of 1854, section 347, page 89, Laws of 1869, section 354, page 75, Laws of 1877, section 351, Code 1881 and RCW 6.20.020; amending section 15, chapter 53, Laws of 1899, section 1, chapter 93, Laws of 1927, section 1, chapter 94, Laws of 1939 and RCW 6.24.210; amending section 1, chapter 133, Laws of 1893, section 1, chapter 93, Laws of 1899 and RCW 6.32.010; and declaring an emergency.

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

SECTION 1. Section 1, chapter 25, Laws of 1929 and RCW 6.04.030 are each amended to read as follows:

RCW 6.04.030 amended.

When any judgment of a court of record of this state requires the payment of money, or the delivery of real or personal property, the same may be enforced in those respects by execution. When it requires the performance of any other act, a certified copy of the judgment may be served on the party against whom it is given, or the person or officer who is required thereby, or by law, to

Execution in particular cases.

obey the same, and a writ shall be issued commanding him to obey or enforce the same. If he refuses, he may be punished by the court as for contempt.

RCW 6.04.070 amended.

SEC. 2. Section 7, chapter 25, Laws of 1929 and RCW 6.04.070 are each amended to read as follows:

Execution in name of assignee or personal representative.

In all cases in which a judgment heretofore or hereafter recovered in any court of this state, has been or shall be assigned to any person, execution may issue in the name of the assignee, upon the assignment being recorded in the execution docket, by the clerk of the court in which the judgment is recovered, and in all cases in which a judgment has been or shall be recovered in any such court, and the person in whose name execution might have issued, has died or shall die, execution may issue in the name of the executor, administrator or legal representative of such deceased person, upon letters testamentary or of administration, or other sufficient proof being filed in said cause and minuted upon the execution docket, by the clerk of the court in which said judgment is entered, and upon an order of said court or the judge thereof, which may be made on an ex parte application.

RCW 6.04.120 amended.

SEC. 3. Section 499, page 220, Laws of 1854, section 694, page 174, Laws of 1869, section 757, page 152, Laws of 1877, section 752, Code 1881 and RCW 6.04.120 are each amended to read as follows:

Levy on joint personalty.

When a defendant owns personal property jointly, or in copartnership with any other person, and the interest cannot be separately attached, the sheriff shall take possession of the property, unless the other person having an interest therein shall give the sheriff a sufficient bond, with surety, to hold and manage the property according to law; and the sheriff shall then proceed to sell the interest of the defendant in such property, describing such interest in his advertisement as nearly as may be, and the purchaser shall acquire all the interest of

such defendant therein; but nothing herein contained shall be so construed as to deprive the co-partner of any such defendant of his interest in any such property.

SEC. 4. Section 4, page 378, Laws of 1854, section 334, page 85, Laws of 1869, section 342, page 71, Laws of 1877, section 338, Code 1881 and RCW 6.08.030 are each amended to read as follows:

RCW 6.08.030 amended.

The sureties upon a bond for stay of execution shall possess the same qualifications, and justify in the manner provided by law in other cases.

Qualification of sureties.

SEC. 5. Section 256, page 179, Laws of 1854, section 347, page 89, Laws of 1869, section 354, page 75, Laws of 1877, section 351, Code 1881 and RCW 6.20.020 are each amended to read as follows:

RCW 6.20.020 amended.

If the sheriff or other officer require it, the sureties shall justify as in other cases, and in case they do not so justify when required, the sheriff or officer shall retain the property; if the sheriff or officer does not require the sureties to justify, he shall stand good for their sufficiency. He shall date and indorse his acceptance upon the bond.

Justification of sureties.

SEC. 6. Section 15, chapter 53, Laws of 1899, section 1, chapter 93, Laws of 1927, section 1, chapter 94, Laws of 1939 and RCW 6.24.210 are each amended to read as follows:

RCW 6.24.210 amended.

The purchaser from the day of sale until a resale or redemption, and the redemptioner from the day of his redemption until another redemption, shall be entitled to the possession of the property purchased or redeemed, unless the same be in the possession of a tenant holding under an unexpired lease, and in such case shall be entitled to receive from such tenant the rents or the value of the use and occupation thereof during the period of redemption: *Provided*, That when a mortgage contains a stipulation that in case of foreclosure the mortgagor may remain in possession of the mort-

Possession during period of redemption.

Proviso.

gaged premises after sale and until the period of redemption has expired the court shall make its decree to that effect and the mortgagor shall have such right: *Provided, further,* That as to any land so sold which is at the time of the sale used for farming purposes, or which is a part of a farm used, at the time of sale, for farming purposes, the judgment debtor shall be entitled to retain possession thereof during the period of redemption and the purchaser or his successor in interest shall, if the judgment debtor does not redeem, have a lien upon the crops raised or harvested thereon during said year of redemption, for interest on the purchase price at the rate of six percent per annum during said year of redemption, and for taxes becoming delinquent during the year of redemption together with interest thereon: *And, provided further,* That in case of any homestead selected in the manner provided by law and occupied for that purpose at the time of sale, the judgment debtor shall have the right to retain possession thereof during the period of redemption without accounting for issues or value of occupation.

Proviso.

Proviso.

RCW 6.32.010 amended.

SEC. 7. Section 1, chapter 133, Laws of 1893, section 1, chapter 93, Laws of 1899 and RCW 6.32.010 are each amended to read as follows:

Order for examination of judgment debtor.

At any time within six years after entry of a judgment for the sum of twenty-five dollars or over, and after the return of an execution against property wholly or partially unsatisfied upon proof thereof, by affidavit or other competent written evidence satisfactory to the judge or after the issuing of an execution against property and upon proof by the affidavit of a party or otherwise to the satisfaction of the court or a judge thereof, that any judgment debtor has property which he unjustly refuses to apply towards the satisfaction of the judgment, such court or judge may, by an order, require

the judgment debtor to appear at a specified time and place before the judge granting the order, or a referee appointed by him, to answer concerning the same; and the judge to whom application is made under this chapter may, if it is made to appear to him by the affidavit of the judgment creditor, his agent or attorney that there is danger of the debtor absconding, order the sheriff to arrest the debtor and bring him before the judge granting the order. Upon being brought before the judge he may be ordered to enter into a bond, with sufficient sureties, that he will attend from time to time before the judge or referee, as shall be directed, during the pendency of the proceedings and until the final termination thereof.

SEC. 8. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. Emergency.

Passed the House January 28, 1957.

Passed the Senate February 11, 1957.

Approved by the Governor February 19, 1957.

(The above measure, being remedial legislation introduced at the request of the Statute Law Committee, was accompanied by the following explanatory note.) Explanatory note.

Section 1: The language "as provided in this act" appeared in chapter 25 of the Laws of 1929; which was a correction bill presented by the joint committee on revision of laws. That bill retained the language "this act" as it originally appeared in the territorial laws of 1854 and 1877. The note appended to 1929 House Bill 30 indicates that no major or substantive change was intended in that section. Therefore the intent of the 1929 law apparently was to use the word "act" as used in the territorial laws. "This act" as used in the territorial laws referred to the comprehensive civil practice act consisting of hundreds of sections. To enforce executions as provided in the civil practice act requires resort to sections outside of those contained in chapter 25, Laws of 1929. Thus, the words "as provided in this act" are presently superfluous. The bracketed matter to be deleted was added in RCW to clarify the language pending legislative action.

Sec. 2: The bracketed words "[may issue]", were added by the reviser to correct a clerical omission. The section is amended to include these words.

Sec. 3: The words "he [a defendant]" have been changed to read "a defendant" to assure easier identification and to conform to the sec-

**Explanatory
note.**

tion immediately preceding this one both in the session law and in the code; see RCW 6.04.110.

Sec. 4: The language relating to "ball upon arrest in civil actions" has been deleted since the law relating to bail on arrest in civil actions has been repealed, and under present practice the qualification and justification of sureties appears to be governed generally by chapter 19.72 as to personal sureties and by chapter 48.28 as to corporate sureties. The statutes relating to ball upon arrest in civil actions were repealed by 1927 c 162 § 4 which was introduced by the joint committee on the revision of law in 1927 Senate Bill 61. Appended to the printed bill in 1927 was an analysis stating that the law would simply be repealed were it not for the fact that other statutes referred to the ball upon arrest provisions in defining the qualifications and justification of sureties. As indicated in that analysis, it was necessary, as a part of such act, to enact original provisions relating to personal sureties, codified as RCW 19.72-.020-19.72.050. Since it appears that sureties in such cases as this section provides for should have the same qualifications and justify in the same manner as sureties in other cases and in order to avoid unnecessary amendments in the future, the amendatory language adopts the law as to sureties generally in preference to reference to specific code sections.

Sec. 5: The basic language deleted in this section also relates to bail upon arrest in civil actions, see note to section 4, *supra*. The other changes are merely grammatical.

Sec. 6: The bracketed word "[shall]", was added by the reviser to correct a clerical omission. The section is amended to include this word.

Sec. 7: The bracketed words "[, that any]" were added by the reviser to correct a clerical omission. The section is amended to include these words.