

TITLE 11
ENFORCEMENT OF JUDGMENTS IN CIVIL ACTIONS

CHAPTER 4
REDEMPTIONS

11-401. REDEMPTION -- PERSONS ENTITLED TO MAKE. Property sold subject to redemption, as provided in section [11-310](#), or any part sold separately, may be redeemed in the manner hereinafter provided, by the following persons, or their successors in interest:

1. The judgment debtor, or his successor in interest, in the whole or any part of the property.

2. A creditor having a lien by judgment or mortgage on the property sold, or some share or part thereof, subsequent to that on which the property was sold. The persons mentioned in the second subdivision of this section are, in this chapter, termed redemptioners.

[(11-401) C.C.P. 1881, sec. 451; R.S., R.C., & C.L., sec. 4491; C.S., sec. 6932; I.C.A., sec. 8-401.]

11-402. REDEMPTION -- HOW MADE. The judgment debtor or redemptioner may redeem the property from the purchaser within one (1) year after the sale, if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less, on paying the purchaser the amount of his purchase with interest thereon at the rate allowed in section [28-22-104](#)(1), Idaho Code, from the date of sale to the date of redemption, together with the amount of any assessment or taxes which the purchaser may have paid thereon after the commencement of the action and which are not included in the judgment, and interest at the rate allowed in section [28-22-104](#)(1), Idaho Code, on such amount; and, if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such lien with interest at the rate allowed in section [28-22-104](#)(1), Idaho Code; provided, in mortgage foreclosure proceedings, the amount necessary to redeem the property sold under execution shall not include any sum for attorney's fees greater than the fee actually paid by the judgment creditor or which the judgment creditor has by written instrument become unconditionally obligated to pay to his attorney for prosecuting his claim to judgment; and provided, further, the amount of such fee shall be proven by affidavits of the attorney who has received and the person who has paid the fee or by other competent evidence to be presented to the sheriff for his guidance in carrying out the provisions of law relating to redemption; and, provided further, that such redemptioner shall not be required to pay any attorney's fees unless such fees shall have been paid within six (6) months after the sheriff's certificate of sale shall have issued, or within such time the judgment creditor has become unconditionally obligated by written instrument to pay such fees.

[(11-402) C.C.P. 1881, sec. 452; R.S., sec. 4492; am. 1895, p. 34, sec. 1; reen. 1899, p. 241, sec. 1; reen. R.C. & C.L., sec. 4492; C.S., sec. 6933; I.C.A., sec. 8-402; am. 1937, ch. 64, sec. 3, p. 85; am. 1967, ch. 293, sec. 1, p. 825; am. 1970, ch. 100, sec. 1, p. 250; am. 1982, ch. 322, sec. 1, p. 795.]

11-403. SUBSEQUENT REDEMPTIONS. If property be so redeemed by a redemptioner, another redemptioner may, within sixty (60) days after the last redemption and within one (1) year after the sale, if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less, again redeem it from the last redemptioner on paying the sum paid on such last redemption with interest thereon at the rate allowed in section [28-22-104](#)(1), Idaho Code, in addition from the date of the last redemption and the amount of any assessment or taxes which the last redemptioner may have paid thereon, after the redemption by him with interest thereon at the rate allowed in section [28-22-104](#)(1), Idaho Code, on such amount, and in addition the amount of any liens held by said last redemptioner prior to his own, with interest thereon at the rate allowed in section [28-22-104](#)(1), Idaho Code; but the judgment under which the property was sold need not be so paid as a lien.

The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner, within sixty (60) days after the last redemption and within one (1) year after the sale, if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land twenty (20) acres or less, on paying the sum paid on the last previous redemption with interest thereon at the rate allowed in section [28-22-104](#)(1), Idaho Code, in addition, and the amount of any assessments or taxes which the last previous redemptioner paid after the redemption by him, with interest thereon at the rate allowed in section [28-22-104](#)(1), Idaho Code, and the amount of any liens, other than the judgment under which the property was sold, held by the last redemptioner previous to his own, with interest thereon at the rate allowed in section [28-22-104](#)(1), Idaho Code.

Written notice of redemption must be given to the sheriff and a duplicate filed for record with the recorder of the county; and, if any taxes or assessments are paid by the redemptioner, or if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the sheriff and filed with the recorder, and if such notice be not filed, the property may be redeemed without paying such tax, assessment or lien.

If no redemption be made within one (1) year after the sale, if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less, the purchaser or his assignee is entitled to a conveyance, or, if so redeemed, whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereon given, the time for redemption by a redemptioner has expired, and the last redemptioner or his assignee is entitled to a sheriff's deed at the expiration of one (1) year after the sale, if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less; but in all cases the judgment debtor shall have the entire period of one (1) year from the date of the sale to redeem the property if the real property sold consisted of a tract of land of more than twenty (20) acres and shall have the entire period of six (6) months from the date of sale to redeem the property if the real property sold consisted of a tract of land of twenty (20) acres or less.

If the judgment debtor redeem he must make the same payments as are required to effect a redemption by a redemptioner.

If a debtor redeem, the effect of the sale is terminated and he is restored to his estate.

Upon a redemption by the debtor, the person to whom the payment is made must execute and deliver to him a certificate of redemption, acknowledged and proved before an officer authorized to take acknowledgments of conveyances of real property.

Such certificate must be filed and recorded in the office of the recorder of the county in which the property is situated, and the recorder must note the record thereof in the margin of the record of the certificate of sale.

[(11-403) C.C.P. 1881, sec. 453; R.S., sec. 4493; am. 1895, p. 34, sec. 1; reen. 1889, p. 241, sec. 1; reen. R.C. & C.L., sec. 4493; C.S., sec. 6934; I.C.A., sec. 8-403; am. 1935, ch. 7, sec. 2, p. 19; am. 1967, ch. 293, sec. 2, p. 825; am. 1967 (1st E.S.), ch. 2, sec. 1, p. 9; am. 1970, ch. 100, sec. 2, p. 250; am. 1982, ch. 322, sec. 2, p. 796.]

11-404. PAYMENT OF REDEMPTION MONEY. The payments mentioned in the last two (2) sections may be made to the purchaser or redemptioner, or for him, to the officer who made the sale, or to his successor in office. When the judgment under which the sale has been made is payable in a specified kind of money or currency, payments must be made in the same kind of money or currency, and a tender of the money is equivalent to payment.

[(11-404) C.C.P. 1881, sec. 454; R.S. & R.C., sec. 4494; am. 1911, ch. 88, sec. 1, p. 334; reen. C.L., sec. 4494; C.S., sec. 6935; I.C.A., sec. 8-404.]

11-405. SERVICE OF PAPERS BY REDEMPTIONER. A redemptioner must produce to the officer or person from whom he seeks to redeem, and serve with his notice to the sheriff:

1. A copy of the docket of the judgment under which he claims the right to redeem, certified by the clerk of the court, or recorder of the county where the judgment is docketed or filed, or if he redeem upon a mortgage or other lien, a note of the record thereof, certified by the recorder.

2. A copy of any assignment necessary to establish his claim, verified by the affidavit of himself or of a subscribing witness thereto.

3. An affidavit by himself or his agent, showing the amount then actually due on the lien.

[(11-405) C.C.P. 1881, sec. 455; R.S., R.C., & C.L., sec. 4495; C.S., sec. 6936; I.C.A., sec. 8-405.]

11-406. RESTRAINT OF WASTE PENDING EXPIRATION OF REDEMPTION PERIOD. Until the expiration of the time allowed for redemption, the court may restrain the commission of waste on the property, by order granted with or without notice, on the application of the purchaser or the judgment creditor. But it is not waste for the person in possession of the property at the time of sale, or entitled to possession afterward, during the period allowed for redemption, to continue to use it in the same manner in which it was previously used; or to use it in the ordinary course of husbandry; or to make the necessary repairs of buildings thereon; or to use wood or timber on

the property therefor; or for the repair of fences; or for fuel in his family, while he occupies the property.

[(11-406) C.C.P. 1881, sec. 456; R.S., R.C., & C.L., sec. 4496; C.S., sec. 6937; I.C.A., sec. 8-406.]

11-407. RIGHT TO RENTS AND PROFITS AFTER SALE. The purchaser, from the time of the sale until a redemption, and a redemptioner from the time of his redemption until another redemption, is entitled to receive, from the tenant in possession, the rents of the property sold, or the value of the use and occupation thereof. But when any rents or profits have been received by the judgment creditor or purchaser, or his or their assigns, from the property thus sold preceding such redemption, the amount of such rents and profits shall be a credit upon the redemption money to be paid; and if the redemptioner or judgment debtor, before the expiration of the time allowed for such redemption, demands in writing of such purchaser, or creditor, or his assigns, a written and verified statement of the amounts of such rents and profits thus received, the period for redemption is extended five (5) days after such sworn statement is given by such purchaser or his assigns, to such redemptioner or debtor. If such purchaser or his assigns shall, for a period of one (1) month from and after such demand, fail or refuse to give such statement, such redemptioner or debtor may, within sixty (60) days after such demand, bring an action in any court of competent jurisdiction, to compel an accounting and disclosure of such rents and profits, and until fifteen (15) days from and after the final determination of such action the right of redemption is extended to such redemptioner or debtor.

[(11-407) C.C.P. 1881, sec. 457; R.S., R.C., & C.L., sec. 4497; C.S., sec. 6938; am. 1921, ch. 169, sec. 1, p. 364; I.C.A., sec. 8-407.]