

TITLE 55
PROPERTY IN GENERAL

CHAPTER 11
SALE OF HOMESTEAD ON EXECUTION

55-1101. EXECUTION AGAINST HOMESTEAD. When an execution for the enforcement of a judgment, obtained in a case not within the classes before enumerated, is levied upon the homestead, the judgment creditor may apply to the district court of the county in which the homestead is situated for the appointment of persons to appraise the value thereof.

[(55-1101) 1863, p. 575, sec. 3; R.S., sec. 3043; reen. R.C. & C.L., sec. 3181; C.S., sec. 5445; I.C.A., sec. 54-1101.]

55-1102. APPLICATION FOR APPRAISEMENT. The application must be made upon a 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.

[(55-1102) 1863, p. 575, sec. 3; R.S., sec. 3044; reen. R.C. & C.L., sec. 3182; C.S., sec. 5446; I.C.A., sec. 54-1102.]

55-1103. FILING OF APPLICATION. The petition must be filed with the clerk of the district court.

[(55-1103) R.S., sec. 3045; reen. R.C. & C.L., sec. 3183; C.S., sec. 5447; I.C.A., sec. 54-1103; am. 2012, ch. 20, sec. 26, p. 74.]

55-1104. NOTICE OF HEARING. A copy of the petition, with a notice of the time and place of hearing, must be served upon the claimant at least two (2) days before the hearing.

[(55-1104) R.S., sec. 3046; reen. R.C. & C.L., sec. 3184; C.S., sec. 5448; I.C.A., sec. 54-1104.]

55-1105. APPOINTMENT OF APPRAISERS. At the hearing the judge may, upon proof of the service of a copy of the petition and notice, and of the facts stated in the petition, appoint three (3) disinterested residents of the county to appraise the value of the homestead.

[(55-1105) 1863, p. 575, sec. 3; R.S., sec. 3047; reen. R.C. & C.L., sec. 3185; C.S., sec. 5449; I.C.A., sec. 54-1105.]

55-1106. OATH OF APPRAISERS. The persons appointed, before entering upon the performance of their duties, must take an oath to faithfully perform the same.

[(55-1106) R.S., sec. 3048; reen. R.C. & C.L., sec. 3186; C.S., sec. 5450; I.C.A., sec. 54-1106.]

55-1107. APPRAISAL. 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.

[(55-1107) 1863, p. 575, sec. 3; R.S., sec. 3049; reen. R.C. & C.L., sec. 3187; C.S., sec. 5451; I.C.A., sec. 54-1107.]

55-1108. REPORT OF APPRAISERS. Within ten (10) days after their appointment they must make to the judge a report in writing, which report must show the appraised value and their determination upon the matter of a division of the land claimed.

[(55-1108) 1863, p. 575, sec. 3; R.S., sec. 3050; reen. R.C. & C.L., sec. 3188; C.S., sec. 5452; I.C.A., sec. 54-1108.]

55-1109. ORDER SETTING ASIDE EXEMPT PORTION. If, from the report, it appears to the judge that the land claimed can be divided without material injury, he 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.

[(55-1109) 1863, p. 575, sec. 3; R.S., sec. 3051; reen. R.C. & C.L., sec. 3189; C.S., sec. 5453; I.C.A., sec. 54-1109.]

55-1110. ORDER FOR SALE OF PREMISES. If, from the report, it appear to the judge that the land claimed exceeds in value the amount of the homestead exemption, and that it can not be divided, he must make an order directing its sale under the execution.

[(55-1110) 1863, p. 575, sec. 3; R.S., sec. 3052; reen. R.C. & C.L., sec. 3190; C.S., sec. 5454; I.C.A., sec. 54-1110.]

55-1111. BID MUST EXCEED EXEMPTION. At such sale no bid must be received unless it exceeds the amount of the homestead exemption.

[(55-1111) 1863, p. 575, sec. 3; R.S., sec. 3053; reen. R.C. & C.L., sec. 3191; C.S., sec. 5455; I.C.A., sec. 54-1111.]

55-1112. DISPOSAL OF PROCEEDS OF SALE. 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.

[(55-1112) 1863, p. 575, sec. 3; R.S., sec. 3054; reen. R.C. & C.L., sec. 3192; C.S., sec. 5456; I.C.A., sec. 54-1112.]

55-1113. EXEMPTION OF PROCEEDS OF SALE. The money paid to the claimant is entitled, for the period of six (6) months thereafter, to the same protection against legal process and the voluntary disposition of the husband, which the law gives to the homestead.

[(55-1113) 1863, p. 575, sec. 3; R.S., sec. 3055; reen. R.C. & C.L., sec. 3193; C.S., sec. 5457; I.C.A., sec. 54-1113.]

55-1114. COMPENSATION OF APPRAISERS. The court must fix the compensation of the appraisers, not to exceed five dollars (\$5.00) per day each for the time actually engaged.

[(55-1114) R.S., sec. 3056; reen. R.C. & C.L., sec. 3194; C.S., sec. 5458; I.C.A., sec. 54-1114.]

55-1115. COSTS OF PROCEEDINGS. The execution creditor must pay the costs of these proceedings in the first instance; but if the appraised value exceeds the homestead exemption the amount so paid must be added as costs on execution, and collected accordingly.

[(55-1115) R.S., sec. 3057; reen. R.C. & C.L., sec. 3195; C.S., sec. 5459; I.C.A., sec. 54-1115.]

CHAPTER 12
HOMESTEADS OF HEADS OF FAMILIES -- [REPEALED]