

For 2007 legislative session

1. **510.01 Homestead defined; exempt; exception.**

2 The home owned and occupied by a debtor as the debtor's dwelling place, together with the
3 land upon which it is situated to the amount of area and value hereinafter limited and defined,
4 shall constitute the homestead of such debtor and the debtor's family, and be exempt from
5 seizure or sale under legal process on account of any debt not lawfully charged thereon in
6 writing, except such as are incurred for work or materials furnished in the construction, repair, or
7 improvement of such homestead, or for services performed by laborers or servants and as is
8 provided in section 550.175.

9. **510.02 Area and value; how limited.**

10 The homestead may include any quantity of land not exceeding 160 acres, and not included
11 in the laid out or platted portion of any city. If the homestead is within the laid out or platted
12 portion of a city, its area must not exceed one-half of an acre. The amount of the exemption
13 value of the homestead exemption per homestead, whether the exemption is claimed by one or
14 more debtors jointly or individually, may not exceed \$200,000 or, if the homestead is used
15 primarily for agricultural purposes, \$500,000, exclusive of the limitations set forth in section
16 510.05.

17. **510.03 Title may be in either spouse; equitable title exempt.**

18 If the debtor be married the homestead title may be vested in either spouse, and the
19 exemption shall extend to the debts of either or of both. Any interest in the land, whether legal
20 or equitable, shall constitute ownership, within the meaning of this chapter, and the dwelling
21 house so owned and occupied shall be exempt, though situated on the land of another.

22. **510.04 Limitations.**

1 ~~Such~~ The amount of the homestead exemption shall not be reduced by and shall not extend to
2 any mortgage lawfully obtained thereon, to any valid lien for taxes or assessments, to a claim
3 filed pursuant to section 256B.15 or section 246.53 ~~or~~, to any charge arising under the laws
4 relating to laborers or material suppliers' liens or to any charge obtained pursuant to a valid
5 waiver of the homestead exemption.

6 **510.06 Exemptions not lost by death or desertion.**

7 If the owner dies leaving a spouse or minor children constituting the owner's family
8 surviving, the homestead exemption shall not be affected by the death. If the owner shall
9 abscond, or otherwise desert the family, the spouse and the minor children compromising the
10 family may retain the homestead, with all the rights of owners therein. They shall not have
11 power to sell or mortgage it, except in cases expressly provided for by law.

12 **510.07 Sale or removal permitted; insurance proceeds; notice.**

13 The owner may sell and convey the homestead without subjecting it, or the proceeds of such
14 sale for the period of one year after sale, to any judgment or debt from which it was exempt in
15 the owner's hands, except that the proceeds of the sale are not exempt from a judgment or debt
16 for a court ordered child support or maintenance obligation in arrears. The proceeds of an
17 insurance claim for an exempt homestead are exempt for one year. The owner may remove
18 therefrom without affecting such exemption, if the owner does not thereby abandon the same as
19 the place of abode. If the owner shall cease to occupy such homestead for more than six
20 consecutive months the owner shall be deemed to have abandoned the same unless, within
21 such period, the owner shall file with the county recorder of the county in which it is situated a
22 notice, executed, witnessed, and acknowledged as in the case of a deed, describing the premises
23 and claiming the same as the owner's homestead. In no case shall the exemption continue more

1 than five years after such filing, unless during some part of the term the premises shall have been
2 occupied as the actual dwelling place of the debtor or the debtor's family.

3 **510.08 Selection after levy.**

4
5 (a) If the premises so owned and occupied by the debtor or claimed under the debtor by
6 another as exempt shall exceed the area herein prescribed, and the homestead shall not have been
7 set apart as such and its boundaries defined, an attachment or execution may be levied upon the
8 whole. Thereupon the person entitled to the benefits of such exemption shall deliver to the
9 officer making the levy a description of the part claimed as exempt, and the remainder only shall
10 be subject to the levy so made.

11 (b) If the premises so owned and occupied by the debtor or claimed under the debtor by
12 another as exempt exceeds the value prescribed in section 510.02, an attachment or execution
13 may be levied upon the whole.

14 **510.09 Selection, how made.**

15 Such selection shall embrace the site of the dwelling and its appurtenances, shall be compact
16 in form, and shall be so made as not unreasonably to affect the value of the remaining part. If the
17 selection be not made within 20 days after notice of the levy, or if, when made, it be not
18 satisfactory to the creditor procuring such levy, the sheriff shall cause such homestead to be set
19 apart by a survey, beginning at a point designated by the claimant, or, if no such designation be
20 made, at such point as the sheriff shall direct, and the cost of such survey shall be added to the
21 debt and paid out of the proceeds
22 of sale.

23 **550.175 Execution on real property that includes homestead.**

1 **Subdivision 1. Order directing sale of real property.** The executing creditor must obtain an
2 order from the Court directing a sale of the real property that includes a homestead before service
3 of the notice of execution on real property containing the homestead of the debtor. The order
4 shall contain the following findings:

5 (1) whether the real property is the homestead of a non-debtor;

6 (2) the amount of the debtor's homestead exemption, if any; and

7 (3) whether the fair market value of the real property exceeds the sum of the debtor's homestead
8 exemption and the present encumbrances;

9 If the court finds that there is no non-debtor with a valid homestead interest in the real
10 property and that the fair market value of the homestead real property exceeds the sum of the
11 debtor's homestead exemption and the present encumbrances, the court shall order a sale of the
12 real property for cash or cash equivalents to the extent of the homestead exemption.

13 **Subd. 1a. Notification of homestead designation.** If real property is to be sold on
14 execution and the property contains a portion of the homestead of the debtor, the debtor must be
15 notified by the executing creditor that the homestead may be sold and redeemed separately from
16 the remaining property. The notice in subdivision 2 must be included in the notice of execution
17 served on the debtor under section 550.19.

18 **Subd. 2. Homestead designation notice.** The following notice must be included in the
19 execution notice of real property containing a homestead that is served on a debtor under section
20 550.19. The notice must be in 10 point capitalized letters.

21 "PART OF THE PROPERTY TO BE SOLD CONTAINS YOUR HOUSE. YOU MAY
22 DESIGNATE THE AREA OF A HOMESTEAD TO BE SOLD AND REDEEMED
23 SEPARATELY.

1 YOU MAY DESIGNATE THE HOUSE YOU OCCUPY AND ANY AMOUNT OF THE
2 PROPERTY AS A HOMESTEAD. THE DESIGNATED HOMESTEAD PROPERTY MUST
3 CONFORM TO THE LOCAL ZONING ORDINANCES AND BE COMPACT SO THAT IT
4 DOES NOT UNREASONABLY REDUCE THE VALUE OF THE REMAINING PROPERTY.

5 YOU MUST PROVIDE THE CREDITOR CAUSING THIS PROPERTY TO BE SOLD,
6 THE SHERIFF, AND THE COUNTY RECORDER WITH A COPY OF THE LEGAL
7 DESCRIPTION OF THE HOMESTEAD YOU HAVE DESIGNATED BY TEN BUSINESS
8 DAYS BEFORE THE DATE THE PROPERTY IS TO BE SOLD."

9 **Subd. 3. Designation of homestead property.** The debtor must designate the legal
10 description of the homestead property to be sold separately and the debtor's estimate of the value
11 of the property. The homestead property designated may include any amount of the property.
12 The designation must conform to local zoning, include the dwelling occupied by the debtor, and
13 be compact so that it does not unreasonably affect the value of the remaining property. The
14 debtor must serve a copy of the designation on the executing creditor, the sheriff, and the county
15 recorder by ten business days before the sale is scheduled.

16 **Subd. 4. Sale of property.** (a) If the sheriff receives a homestead property designation under
17 subdivision 3, the sheriff must offer and sell the designated homestead property, and the
18 remaining property, separately, unless the executing creditor denies the right to the exemption,
19 objects to the property designated, or claims the value exceeds the exemption.

20 (b) If the executing creditor is dissatisfied with the homestead property designation or the
21 debtor's valuation of the property, upon proper motion to the district court of the county in which
22 any part of the property is located, the executing creditor is entitled to a court approved
23 designation of the homestead and a court determination of value. The court shall either approve

1 the debtor's designation or cause the property to be surveyed and order a homestead designation
2 consistent with the standards of subdivision 3 and require an appraisal of fair market value, as
3 applicable. The court's designation of the homestead property must conform to the debtor's
4 request, to the extent not inconsistent with the standards of subdivision 3.

5 (c) The court, in determining appraised value, shall review any appraisals provided by the
6 debtor and executing creditor and may require a court appointed independent appraisal. The
7 appraisals shall evaluate the property's fair market value, net of reasonable costs of sale.

8 (d) If the court determines that the property claimed as a homestead exceeds in value the
9 amount of the homestead exemption or if the court determines that the property cannot be
10 divided without material injury, the court shall order the sale of the entire property, including the
11 designated homestead for cash or cash equivalents to the extent of the homestead exemption.
12 ~~Out of the proceeds of the sale, the court shall pay the debtor the amount of the homestead~~
13 ~~exemption and apply the balance of the proceeds of the sale on the execution.~~

14 (e) At the sale, no bid may be accepted unless it exceeds the amount of the homestead
15 exemption. If no bid exceeds the exemption, the homestead is exempt.

16 (f) The cost of any court ordered survey or appraisal and of the sale must be collected on the
17 execution, if the debtor designated as the debtor's homestead a greater quantity of property,
18 property of greater value than the debtor was entitled to, or designated a parcel that does not
19 meet the standards of subdivision 3. In all other cases, the costs shall be borne by the executing
20 creditor.

21 Subd. 5. **Redemption.** The debtor may redeem the designated homestead, the remaining
22 property, or the entire property including the homestead. The period of redemption for the

1 designated homestead or the remaining property is the same as the period of redemption for the
2 entire property including the designated homestead.

3 **Subd. 6. Real property not subject to execution. Real property which includes a**
4 **homestead as defined under 510.01 is not subject to execution under this chapter if there is a**
5 **non-debtor with:**

6 **(1) homestead rights under sections 507.02 and 510.01 through 510.04;**

7 **(2) rights as a joint tenant or life tenant; or,**

8 **(3) rights to take the homestead under section 524.2-402.**

9 **550.18 NOTICE OF SALE.** Before the sale of property on execution, notice shall be given as
10 follows:

11 (1) If the sale be of personal property, by giving ten days posted notice of the time and
12 place thereof;

13 (2) If the sale be of real property, on execution or on judgment by six weeks posted and
14 published notice of the time and place thereof, describing the property with sufficient certainty to
15 enable a person of common understanding to identify it.

16 **(3) A judgment creditor shall record a certified copy of the order directing sale of real**
17 **property issued pursuant to section 550.175 if the real property is a homestead with the county**
18 **recorder or registrar of titles as appropriate in the county in which the real property is located**
19 **before the first date of publication of the notice of sale required under section 550.18, clause (2).**

20 An officer who sells without such notice shall forfeit \$100 to the party aggrieved, in addition
21 to paying actual damages; and a person who before the sale or the satisfaction of the execution,
22 and without the consent of the parties, takes down or defaces the notice posted, shall forfeit \$50;

1 but the validity of the sale shall not be affected by either act, either as to third persons or parties
2 to the action.

3 **550.19 SERVICE ON JUDGMENT DEBTOR.** ~~At or before the time of posting notice of sale,~~
4 ~~the officer shall serve a copy of the execution and inventory, and of such notice, upon the~~
5 ~~judgment debtor, if the debtor be a resident of the county, in the manner required by law for the~~
6 ~~service of a summons in a civil action.~~ A judgment creditor must, at least four weeks before the
7 appointed time of sale, serve a copy of the notice of sale in like manner as a summons in a civil
8 action in the district court upon the judgment debtor if the judgment debtor is a resident of the
9 county and upon any person in possession of the homestead other than the judgment debtor. In
10 addition, the notice of sale must also be served upon all persons who have recorded a request for
11 notice in accordance with section 580.032.

12 **550.20 SALE, WHEN AND HOW.** The sale shall be by auction, between 9 o'clock a.m. and
13 sunset, in the county where the property or some part thereof is situated. If the sale is of personal
14 property capable of manual delivery, it shall be within view of those who attend, and shall be
15 sold in such parcels as are likely to bring the highest price. If of real property consisting of
16 several unknown parcels, the parcels shall be sold separately; and, if a portion thereof is claimed
17 by a third person who requires it to be sold separately, it shall be so sold. No more shall be sold
18 than is sufficient to satisfy the execution, and neither the officer nor the officer's deputy may
19 purchase.

20 **550.205 REPORT OF SALE OF HOMESTEAD ON EXECUTION; CONFIRMATION;**
21 **RESALE.** Upon sale of a homestead on execution, the sheriff shall file a report of the sale with
22 the court. Upon the filing of the report of sale, the court shall grant an order confirming the sale,
23 or, if it appears upon due examination that justice has not been done, the court may order a resale

1 on terms the court determines are just. Upon confirmation of the sale and execution of the
2 certificate of sale, the sheriff shall pay the judgment debtor the amount of the homestead
3 exemption and apply the balance of the proceeds of the sale to the execution. The sheriff shall
4 pay any surplus thereafter in the manner provided in section 580.09.

5 **550.22 CERTIFICATE OF SALE OF REALTY.**

6 When a sale of real property is made upon execution, or pursuant to a judgment or order of a
7 court, unless otherwise specified therein, the officer shall execute and deliver to the purchaser a
8 certificate containing:

- 9 (1) A description of the execution, judgment, or order;
- 10 (2) A description of the property;
- 11 (3) The date of the sale and the name of the purchaser;
- 12 (4) The price paid for each parcel separately;
- 13 (5) If subject to redemption, the time allowed by law therefore.
- 14 (6) The amount of the debtor's homestead exemption, if any, as determined under
15 section 550.175;

16 Such certificate shall be executed, acknowledged, and recorded, together with the order
17 confirming sale, in the manner provided by law for a conveyance of real property, shall be prima
18 facie evidence of the facts therein stated, and, upon expiration of the time for redemption, shall
19 operate as a conveyance to the purchaser of all the right, title, and interest of the person whose
20 property is sold in and to the same, at the date of the lien upon which the same was sold.

21 Any person desiring to perpetuate evidence that any real property sold under this section was not
22 homestead real property may procure an affidavit by the person enforcing the judgment, or that
23 person's attorney, or someone having knowledge of the facts, setting forth that the real property

1 was not homestead real property. The affidavit shall be recorded by the county recorder or
2 registrar of titles, and the affidavit and certified copies of the affidavit shall be prima facie
3 evidence of the facts stated in the affidavit.

4 **550.24 REDEMPTION OF REALTY.**

5 (a) Upon the sale of real property, if the estate sold is less than a leasehold of two years'
6 unexpired term, the sale is absolute. In all other cases the property sold, or any portion thereof
7 which has been sold separately, is subject to redemption as provided in this section.

8 (b) The judgment debtor, the debtor's heirs, successors, legal representatives, or assigns may
9 redeem within one year after the day of the sale, or order confirming sale if the property is a
10 homestead, by paying, to the purchaser or the officer making the sale, the amount for which the
11 property was sold with interest at the judgment rate and if the purchaser is a creditor having a
12 prior lien, the amount thereof, with interest at the judgment rate together with any costs as
13 provided in section 582.03 and 582.031.

14 (c) If there is no redemption during the debtor's redemption period, creditors having a lien,
15 legal or equitable, on the property or some part thereof, subsequent to that on which it was sold
16 may redeem in the manner provided for redemption by creditors of the mortgagor in section
17 580.24, in order of their respective liens.

18 (d) If the property is abandoned during the judgment debtor's redemption period, the person
19 holding the sheriff's certificate may request that the Court reduce the judgment debtor's
20 redemption period to five weeks using the procedures provided for a foreclosure by action in
21 section 582.032, subdivision 5.

22 **580.24 Redemption by creditor.**

1 (a) If no redemption is made by the mortgagor, the mortgagor's personal representatives or
2 assigns, the most senior creditor having a legal or equitable lien upon the mortgaged premises, or
3 some part of it, subsequent to the foreclosed mortgage, may redeem within seven days after the
4 expiration of the redemption period determined under section 580.23 or 582.032, whichever is
5 applicable; and each subsequent creditor having a lien may redeem, in the order of priority of
6 their respective liens, within seven days after the time allowed the prior lienholder by paying the
7 amount required under this section. However, no creditor is entitled to redeem unless, within the
8 period allowed for redemption by the mortgagor, the creditor:

9 (1) files for record with each county recorder and registrar of titles where the foreclosed
10 mortgage is recorded a notice of the creditor's intention to redeem;

11 (2) files for record in each office where the notice is filed all documents necessary to create
12 the lien on the mortgaged premises and to evidence the creditor's ownership of the lien; and

13 (3) after complying with clauses (1) and (2), delivers to the sheriff who conducted the
14 foreclosure sale or the sheriff's successor in office a copy of each of the documents required to be
15 filed under clauses (1) and (2), with the office, date and time of filing for record stated on the
16 first page of each document.

17 The sheriff shall maintain for public inspection all documents delivered to the sheriff and shall
18 note the date of delivery on each document. The sheriff may charge a fee of \$100 for the
19 documents delivered to the sheriff relating to each lien. The sheriff shall maintain copies of
20 documents delivered to the sheriff for a period of six months after the end of the mortgagor's
21 redemption period.

22 (b) Saturdays, Sundays, legal holidays, and the first day following the expiration of the prior
23 redemption period must be included in computing the seven-day redemption period. When the

1 last day of the period falls on Saturday, Sunday, or a legal holiday, that day must be omitted
2 from the computation. The order of redemption by judgment creditors subsequent to the
3 foreclosed mortgage shall be determined by the order in which their judgments were recorded in
4 the office of the registrar of titles or docketed in the office of the district court administrator if
5 the property is not registered under chapter 508 or 508A, regardless of the homestead status of
6 the property. All mechanic's lienholders who have coordinate liens shall have one combined
7 seven-day period to redeem.

8 (c) The amount required to redeem from the holder of the sheriff's certificate of sale is the
9 amount required under section 580.23. The amount required to redeem from a person holding a
10 certificate of redemption is:

- 11 (1) the amount paid to redeem as shown on the certificate of redemption; plus
- 12 (2) interest on that amount to the date of redemption; plus
- 13 (3) the amount claimed due on the person's lien, as shown on the affidavit under section
14 580.25, clause (3).

15 The amount required to redeem may be paid to the holder of the sheriff's certificate of sale or
16 the certificate of redemption, as the case may be, or to the sheriff for the holder.

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