

SENATE FILE 0073

SF0073

87LSO0073

SENATE FILE 0073

AN ACT to create W.S. 1-21-517; to amend W.S. 1-16-102(b), 1-17-101(b), 1-17-301, 1-17-308, 1-17-310, 1-17-316(a) through (c), 1-17-328(a) and (c), 1-17-340, 1-17-401, 1-17-402, 1-17-415, 1-17-501, 1-21-205, 1-21-502, 1-21-505 and 1-21-509; and to repeal W.S. 1-16-203, 1-17-403, 1-17-404, 1-17-405(a) and (b), 1-17-406 through 1-17-409 and 1-17-601 through 1-17-614 relating to enforcement of judgments; specifying the rate of interest on judgments founded on contracts; repealing provisions relating to execution against and attachment of persons; providing that all property of a judgment debtor including any legal or equitable interest in property is subject to execution; providing that execution may issue against real or personal property of the judgment debtor in any order; modifying restrictions relating to the sale of real property after appraisal and specifying who shall be designated as appraisers; providing that execution may be levied against the property of the principal debtor or his surety in any order; providing that an action to subject equitable assets to the payment of a judgment may be brought at any time; authorizing discovery in aid of execution in accordance with the Wyoming Rules of Civil Procedure and providing that property in the hands of a third person is bound from the time notice of discovery is served; providing for garnishment in aid of execution at any time after issuance of the writ of execution; authorizing post judgment garnishment in small claims proceedings; conforming related statutes; and providing for an effective date.

DATE	ACTION	DATE	ACTION
JAN 13 1987	INTRODUCED	FEB 23 1987	READ SECOND TIME
	READ FIRST TIME	FEB 24 1987	READ THIRD TIME
	REFERRED TO COM. NO. 1		PASSED Ayes 58, Noes 5, Absent 0
	DELIVERED TO LSO FOR PRINTING		1-17-404 for Senate
	RETURNED FROM LSO FOR PRINTED		
	DELIVERED TO COM. NO. 1	FEB 25 1987	Received Amended Senate did not concur on House Amendment 26 Ayes, 4 Noes. Joint Conf. Comm. appointed Hold pending House and Senate Report
JAN 20 1987	STANDING COMM. REPORT		Sen. Arney, Wiedersheim, Cundall, Rep. Rothbach, Hagaman, Belmont
	RECOMMENDED DO PASS		Discharge #1 Comm.
JAN 22 1987	CONSIDERED ON COM. OF WHOLE	FEB 27 1987	Appoint Free Comm. #2
	DO PASS		Sen. Arney, Wiedersheim, Cundall, Rep. Rothbach, Hagaman, Belmont
JAN 23 1987	READ SECOND TIME		
	DO PASS		
JAN 26 1987	READ THIRD TIME Consent List	Feb 28	Motion to discharge Jcc #4 appoint new Committee - Passed
	PASSED Ayes 29, Noes 1, EXCLUDED 0, ABSENT 0...		
	SENT TO HOUSE		
JAN 28 1987	READ FIRST TIME		Joint Conf #3 appointed Sen. Zimmerman, True + Kenney Rep. Rothbach, O'Toole, Zuercher
	REFERRED TO COM. NO. 1		
	DELIVERED TO COM. NO. 1		
FEB 13 1987	RETURNED		
	Recommended Amend and Be Filed Tape 2, 4, 6		
FEB 20 1987	CONSIDERED IN COM. OF WHOLE		
	Standard Law Amendment SF73H51/A		
	Adopted		
	Standard Law Amendment SF73H41/A		
	Adopted		

Consent

SF73

3rd

Date 1-26-86

SENATE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Excused	Absent	Ayes	Noes
ARNEY			✓	
BURNETT			✓	
CUNDALL			✓	
DIXON			✓	
DUSL			✓	
EDDINS			✓	
FANOS			✓	
FRISBY			✓	
GRIEVE			✓	
HEALY			✓	
HERBST			✓	
HICKEY			✓	
HINCKLEY			✓	
KINNEY			✓	
LARSON			✓	
MADER			✓	
NORRIS			✓	
PERRY			✓	
PREVEDEL			✓	
REESE			✓	
SCHMIDT			✓	
SCOTT			✓	
STROOCK				✓
SULLIVAN			✓	
TRUE			✓	
TURNER				
TWIFORD			✓	
VINICH			✓	
WIEDERSPAHN			✓	
ZIMMER			✓	
MR. PRESIDENT			✓	

PRESENT

AYES

29

NOES

0

EXCUSED

0

ABSENT

0

TOTAL

30

SF 73 Do Not ^{Concurs} Date 2/25/87

SENATE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Excused	Absent	Ayes	Noes
ARNEY			✓	
BURNETT			✓	
CUNDALL			0	✓
DIXON			✓	
DUSL			✓	
EDDINS			✓	
FANOS			✓	
FRISBY			✓	
GRIEVE			✓	
HEALY			✓	
HERBST			✓	
HICKEY			✓	
HICKLEY Whaley			✓	
KINNEY				✓
LARSON			✓	
MADER				✓
NORRIS			✓	
PERRY			✓	
PREVEDEL			✓	
REESE			✓	
SCHMIDT			✓	
SCOTT			✓	
STROOCK			✓	
SULLIVAN			✓	
TRUE			✓	
TURNER				
TWIFORD			✓	
VINICH				✓
WIEDERSPAHN			✓	
ZIMMER			✓	
MR. PRESIDENT			✓	

PRESENT	AYES	26
	NOES	4
	EXCUSED	0
	ABSENT	0
	TOTAL	30

#

SG73 Thurs. Reading

Date

2/24/87

HOUSE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
ARNOLD	✓				ODDE	✓			
BEBOUT	✓	✓			O'TOOLE	✓			
BEHRENS	✓				PARKER	✓			
BIRLEFFI	✓				PERKINS, D.	✓			
BLACKWELL	✓	✓			PERKINS, J.	✓			
BUDD	✓				PLANT	✓			
BURTON	✓				RANKINE	✓			
BYRD	✓				RATLIFF	✓	✓		
CAMERON	✓				ROBERTSON	✓			
CHAMBERLAIN	✓				ROHRBACH	✓			
CROSS	✓				RYCKMAN	✓			
CROWLEY	✓				SCHWOPE	✓			
CUBIN	✓				SHREVE	✓			
DICKEY	✓				SIMONS	✓			
ENZI	✓				STAUFFER	✓			
FREUDENTHAL	✓				TATE	✓			
GERINGER	✓				TEMPEST	✓			
GRANT	✓				THOMAS	✓			
GUICE	✓				TIBBS	✓	✓		
HAGEMAN	✓				TIPPETS	✓		✓	
HANSEN	✓				TIPTON	✓			
HARRISON	✓				TYSDAL	✓			
HINES	✓				WALLIS	✓			
HONAKER	✓				WEAVER	✓			
HOWARD	✓				WILLFORD	✓			
HUMPHREY	✓				WOLFLEY	✓			
JENSEN	✓				ZIMMERMAN	✓			
LUMMIS	✓				ZUMBRUNNEN	✓	✓		
MACMILLAN	✓				MR. SPEAKER	✓			
MALDONADO	✓				PRESENT				
MARTON	✓								
MICILVAIN	✓								
MEEHAN	✓								
MICHEL	✓								
MILLER	✓								
MURPHY	✓								

AYES 58
 NOES 5
 EXCUSED 1
 ABSENT _____
 TOTAL 64
 LESS _____

House of Intro
To Com. No. _____
Stand Report Do ___ Amd ___ Not ___
Com Whole Do ___ Amd ___ Not ___
2nd Reading Amd ___
3rd Reading Amd ___ Pass ___ Fail ___

Second House
To Com No. _____
Stand Report Do ___ Amd ___ Not ___
Com Whole Do ___ Amd ___ Not ___
2nd Reading Amd ___
3rd Reading Amd ___ Pass ___ Fail ___

INTRODUCED

1987

STATE OF WYOMING

87LSO-0073.01

SENATE FILE NO. 0073

Enforcement of judgments.

Sponsored by:  JOINT JUDICIARY INTERIM COMMITTEE

A BILL

for

1 AN ACT to create W.S. 1-21-517; to amend W.S. 1-16-102(b),
2 1-17-101(b), 1-17-301, 1-17-308, 1-17-310, 1-17-316(a)
3 through (c), 1-17-328(a) and (c), 1-17-340, 1-17-401,
4 1-17-402, 1-17-415, 1-17-501, 1-21-205, 1-21-502, 1-21-505
5 and 1-21-509; and to repeal W.S. 1-16-203, 1-17-403,
6 1-17-404, 1-17-405(a) and (b), 1-17-406 through 1-17-409
7 and 1-17-601 through 1-17-614 relating to enforcement of
8 judgments; specifying the rate of interest on judgments
9 founded on contracts; repealing provisions relating to
10 execution against and attachment of persons; providing
11 that all property of a judgment debtor including any legal

- 1 -

SF 0073

NO SIGNIFICANT FISCAL IMPACT

1 or equitable interest in property is subject to execution;
2 providing that execution may issue against real or per-
3 sonal property of the judgment debtor in any order; modi-
4 fying restrictions relating to the sale of real property
5 after appraisal and specifying who shall be designated as
6 appraisers; providing that execution may be levied against
7 the property of the principal debtor or his surety in any
8 order; providing that an action to subject equitable
9 assets to the payment of a judgment may be brought at any
10 time; authorizing discovery in aid of execution in accor-
11 dance with the Wyoming Rules of Civil Procedure and pro-
12 viding that property in the hands of a third person is
13 bound from the time notice of discovery is served; provid-
14 ing for garnishment in aid of execution at any time after
15 issuance of the writ of execution; authorizing post judg-
16 ment garnishment in small claims proceedings; conforming
17 related statutes; and providing for an effective date.

18 Be It Enacted by the Legislature of the State of Wyoming:

19 Section 1. W.S. 1-21-517 is created to read:

20 1-21-517. Discovery in aid of execution.

21 (a) At any time after entry of judgment, the judg-
22 ment creditor may obtain discovery by interrogatories,

1 depositions or otherwise, from any person, including the
2 judgment debtor, in accordance with the Wyoming Rules of
3 Civil Procedure for Justice Courts.

4 (b) Service of any notice of discovery under this
5 section upon a person who has possession of property
6 belonging to the judgment debtor or who is indebted to him
7 binds the property in the possession or under the control
8 of the person from the time of service. The person served
9 with the notice is liable to the judgment creditor for all
10 property, money and credits in his hands belonging to the
11 judgment debtor or due to him from the time of service.

12 Section 2. W.S. 1-16-102(b), 1-17-101(b), 1-17-301,
13 1-17-308, 1-17-310, 1-17-316(a) through (c), 1-17-328(a)
14 and (c), 1-17-340, 1-17-401, 1-17-402, 1-17-415, 1-17-501,
15 1-21-205, 1-21-502, 1-21-505 and 1-21-509 are amended to
16 read:

17 1-16-102. Interest on judgments.

18 (b) If the decree or judgment is founded on a con-
19 tract, and all parties to the contract agreed to interest
20 at a CERTAIN rate, ~~less-than-ten-percent-(10%)-per-year,~~
21 the rate of interest on the decree or judgment shall cor-
22 respond to the terms of the contract.

1 1-17-101. Execution defined; issuance; kinds.

2 (b) Executions are of ~~three-(3)~~ TWO (2) kinds:

3 (i) Against the property of the judgment
4 debtor, including orders of sale; AND

5 ~~(ii)--Against--the--person--of---the---judgment~~
6 ~~debtor;~~

7 ~~(iii)~~(ii) For the delivery of the possession
8 of real property in which case the writ shall contain a
9 specific description of the property and a command to the
10 ~~sheriff~~ OFFICER TO WHOM THE WRIT IS DELIVERED to deliver
11 the property to the person entitled thereto. The writ may
12 also require him to recover damages for withholding pos-
13 session and costs, or costs alone, out of the property of
14 the person who withholds possession.

15 1-17-301. Property subject to levy and sale. Lands
16 ~~and--tenements--including-vested-interests-therein,--perma-~~
17 ~~ment-leasehold-estates-renewable--forever--and--goods--and~~
18 ~~chattels,--not~~ EXCEPT FOR PROPERTY exempt by law, are ALL
19 PROPERTY OF THE JUDGMENT DEBTOR, BOTH REAL AND PERSONAL OR
20 ANY LEGAL OR EQUITABLE INTEREST THEREIN INCLUDING ANY
21 INTEREST OF THE JUDGMENT DEBTOR IN MORTGAGED PROPERTY OR

1 PROPERTY BEING SOLD UNDER AN EXECUTORY LAND CONTRACT, IS
2 subject to ~~the-payment-of-debts-and-are-liaable-to-be-taken~~
3 ~~on execution. and-sold-~~

4 1-17-308. Writs of execution; generally.

5 (a) The writ of execution against the property of
6 the judgment debtor issuing from any court of record shall
7 command the officer to whom it is directed that HE SHALL
8 COLLECT THE MONEY SPECIFIED IN THE WRIT from the ~~goods-and~~
9 ~~chattels~~ REAL AND PERSONAL PROPERTY of the debtor. ~~he~~
10 ~~shall-collect-the-money-specified-in-the-writ-and-for-lack~~
11 ~~of-goods-and-chattels;-that-he-shall-collect-the-same-from~~
12 ~~the-lands-and-tenements-of-the-debtor-~~

13 (b) An execution issued on a judgment rendered
14 against a partnership by its firm name shall operate only
15 on the partnership property.

16 (c) The ~~exaet~~ amount of the debt, damages and costs
17 for which the judgment is entered shall be endorsed on the
18 execution.

19 1-17-310. Writs of execution; levy. The officer to
20 whom a writ of execution is delivered shall proceed imme-
21 diately to levy the writ upon the ~~goods-and-chattels~~ NON-
22 EXEMPT REAL AND PERSONAL PROPERTY of the debtor. ~~if--no~~

1 ~~goods-and-chattels-can-be-found,-the-officer-shall-endorse~~
2 ~~on-the-execution-the-words-"no-goods"-and-immediately-levy~~
3 ~~the--same-upon-the-lands-and-tenements-of-the-debtor-which~~
4 ~~are-liable-to-satisfy-the-judgment-~~

5 1-17-316. Appraisement of lands and tenements
6 required; exception.

7 (a) The officer who levies execution upon ~~lands-and~~
8 ~~tenements~~ REAL PROPERTY shall ~~call-an-inquest-of~~ DESIGNATE
9 A QUALIFIED APPRAISER OR three (3) disinterested property
10 owners who are residents of the county where the lands
11 taken in execution are situate and administer to ~~them~~ THE
12 APPRAISER OR TO THE PROPERTY OWNERS an oath to view and
13 impartially appraise THE VALUE OF the property levied upon
14 OR ANY INTEREST OF THE JUDGMENT DEBTOR THEREIN. The
15 APPRAISER OR THE property owners shall return to the offi-
16 cer as soon as possible a signed estimate of the APPRAISED
17 value. ~~of-the-property-~~

18 (b) When the officer receives the return, he shall
19 promptly deposit a copy with the clerk of the court from
20 which the writ issued and immediately advertise and sell
21 the real estate OR THE JUDGMENT DEBTOR'S INTEREST THEREIN
22 as provided by law.

1 (c) If upon the return it appears that two-thirds
2 ~~(2/3)~~ of the appraised value of the ~~lands--and--tenements~~
3 JUDGMENT DEBTOR'S INTEREST IN THE REAL ESTATE levied upon
4 is sufficient to satisfy the execution with costs, the
5 judgment on which the execution is issued shall not oper-
6 ate as a lien on the residue of the debtor's estate to the
7 prejudice of any other judgment creditor. EXCEPT AS
8 EXPRESSLY AUTHORIZED BY LAW, ~~no tract-of-land~~ REAL ESTATE
9 shall be sold for less than two-thirds ~~(2/3)~~ of the
10 APPRAISED value ~~returned--in--the--appraisal--except--as~~
11 ~~expressly-authorized--by--law~~ OF THE JUDGMENT DEBTOR'S
12 INTEREST IN THE PROPERTY.

13 1-17-328. Separate levies on separate parcels of
14 land.

15 (a) When two (2) or more executions having different
16 preferences are to be satisfied by levying upon real
17 estate, either judgment creditor may require the officer
18 to make a separate levy for his execution. The officer
19 levying the executions may choose such part of the
20 debtor's real property as is sufficient, at two-thirds
21 ~~(2/3)~~ of the appraised value OF THE JUDGMENT DEBTOR'S
22 INTEREST, to satisfy the executions.

23 (c) If ~~the-real-property-of-the-debtor-is-not-suffi-~~

1 ~~cient-at~~ two-thirds (2/3) of ~~its~~ THE appraised value OF
2 THE JUDGMENT DEBTOR'S INTEREST IN REAL PROPERTY IS NOT
3 SUFFICIENT to satisfy all the executions chargeable
4 thereon, ~~such~~ THAT part of the property shall be levied on
5 to satisfy each execution as will bear the same proportion
6 in value to the whole as the amount due on the execution
7 bears to the amount of all the executions chargeable
8 thereon, as near as may be, according to the appraised
9 value of THE JUDGMENT DEBTOR'S INTEREST IN each separate
10 parcel.

11 1-17-340. Entry of judgment against principal and
12 ~~surety; execution. When IF judgment is rendered in-a-court~~
13 ~~of-record-within-this-state on a written instrument in~~
14 ~~which--two--(2)--or--more-persons-are-jointly-or-severally~~
15 ~~bound, and it is made to appear to the court by--parent--or~~
16 ~~other-testimony-that-one-(1)-or-more-of-the-persons-signed~~
17 AGAINST BOTH the instrument-as PRINCIPAL DEBTOR AND HIS
18 surety, ~~for-his-or-their-codefendant, the clerk--of--the~~
19 ~~court,--in--recording-the-judgment,--shall-certify-which-of~~
20 ~~the-defendants-is-principal-debtor-and--which--is--surety.~~
21 ~~The--clerk--shall--issue-~~ WRIT OF execution ~~commanding-the~~
22 ~~officer-to-cause-money-to-be-made-from~~ MAY BE LEVIED UPON
23 the property of the principal debtor, ~~or for-lack-of-suf-~~
24 ~~ficient-property-of-the-principal-debtor-to-make-the--same~~

1 from the property of the surety IN ANY ORDER. The-property
2 of--the--principal--debtor--within-the-jurisdiction-of-the
3 court,-both-personal-and-real,-shall-be--exhausted--before
4 any-property-of-the-surety-is-taken-in-execution-

5 1-17-401. Action against equitable assets. When-a
6 judgment-debtor-does-not-have-personal--or--real--property
7 sufficient--to--satisfy-the-judgment; Any equitable inter-
8 ests he THE JUDGMENT DEBTOR has as mortgagor, mortgagee or
9 otherwise, or any interest he has in any joint stock com-
10 pany, money contract, claim or chose in action due or to
11 become due to him, or in any judgment or order, or any
12 money, goods or effects which he has in the possession of
13 any person, WHICH HAS NOT BEEN LEVIED UPON AND SOLD UNDER
14 EXECUTION is subject to the payment of the judgment by
15 action.

16 1-17-402. Discovery in aid of execution. When--an
17 execution--against--property--issued-to-the-sheriff-of-the
18 county-where-a-judgment-debtor-resides,-or-if-he-does--not
19 reside-in-the-state-to-the-sheriff-of-the-county-where-the
20 judgment--was--rendered-or-a-transcript-of-the-judgment-is
21 filed,-is-retained-unsatisfied,-the-judgment--creditor--is
22 entitled--to-an-order-from-the-judge-of-the-district-court
23 of-the-county-to-which-the-execution-was-issued--requiring

1 ~~the--debtor-to-appear-before-the-judge-at-a-time-and-place~~
2 ~~specified-in-the-order-and-answer-concerning-his-property-~~

3 (a) AT ANY TIME AFTER ENTRY OF JUDGMENT, THE JUDG-
4 MENT CREDITOR MAY OBTAIN DISCOVERY BY INTERROGATORIES,
5 DEPOSITIONS OR OTHERWISE, FROM ANY PERSON, INCLUDING THE
6 JUDGMENT DEBTOR, IN ACCORDANCE WITH THE WYOMING RULES OF
7 CIVIL PROCEDURE.

8 (b) SERVICE OF ANY NOTICE OF DISCOVERY UNDER THIS
9 SECTION UPON A PERSON WHO HAS POSSESSION OF PROPERTY
10 BELONGING TO THE JUDGMENT DEBTOR OR WHO IS INDEBTED TO HIM
11 BINDS THE PROPERTY IN THE POSSESSION OR UNDER THE CONTROL
12 OF THE PERSON FROM THE TIME OF SERVICE. THE PERSON SERVED
13 WITH THE NOTICE IS LIABLE TO THE JUDGMENT CREDITOR FOR ALL
14 PROPERTY, MONEY AND CREDITS IN HIS HANDS BELONGING TO THE
15 JUDGMENT DEBTOR OR DUE TO HIM FROM THE TIME OF SERVICE.

16 1-17-415. Orders to be filed. ~~The-judge-shall-reduce~~
17 ~~All his orders in-writing-which,-together-with-minutes--of~~
18 ~~the--proceedings--signed--by--himself,~~ OF THE COURT ISSUED
19 PURSUANT TO THIS ARTICLE shall be filed with the clerk of
20 the court of the county in which the judgment is rendered
21 or the transcript of the justice COURT PROCEEDING is
22 filed, and the clerk shall enter on his execution docket
23 the time of filing the same. ~~The-order-mentioned--in--W-S-~~

1 1-17-402,--1-17-403--and--1-17-405--shall--be--in-writing,
2 signed-by-the-judge-who--makes--the--same,--and--shall--be
3 served-as-a-summons.

4 1-17-501. Summons and proceedings on interrogato-
5 ries. When-an AT ANY TIME AFTER ISSUANCE OF A WRIT OF exe-
6 cution from-any-court-of-this-state-is-placed-in-the-hands
7 of-a-proper-officer-for-service,--and--sufficient--property
8 of--the-judgment-debtor-is-not-found-to-satisfy-the-execu-
9 tion, the officer holding the execution, upon demand of
10 the judgment creditor, shall summon in writing as gar-
11 nishee the person named to him by the judgment creditor,
12 to appear before the court from which the execution issued
13 on a certain day and hour specified in the summons, to
14 answer such interrogatories as-may-be-asked--him--touching
15 CONCERNING his liability as garnishee. Proceedings thereon
16 shall be taken to final judgment and execution as upon
17 actions instituted by attachment in the court from which
18 the execution issued.

19 1-21-205. Pleading and hearing; execution. The
20 plaintiff and defendant may offer evidence in their behalf
21 by witnesses appearing at the hearing. No formal pleading
22 other than the claim and notice is necessary. The hearing
23 and disposition of the hearing shall be informal. No

1 PREJUDGMENT attachment or garnishment shall issue, but
2 execution, INCLUDING POST JUDGMENT GARNISHMENT IN AID OF
3 EXECUTION, may issue as prescribed by law for ~~the-issuance~~
4 ~~of-execution-in~~ justice or county court.

5 1-21-502. Form and contents of execution; execution
6 against principal or surety.

7 (a) The execution shall be directed to the sheriff
8 of the county, subscribed by the justice by whom the judg-
9 ment was rendered, or by his successor in office, and
10 dated the day of delivery to the officer for execution. ~~It~~
11 THE EXECUTION shall refer to the judgment by stating the
12 names of the parties, the name of the justice, the county
13 where and the time when it was rendered and the true
14 amount of the unsatisfied judgment due. The execution
15 shall direct the sheriff TO:

16 (i) ~~To~~ Collect the amount of the judgment out
17 of the personal property of the JUDGMENT debtor and pay
18 ~~the-same~~ IT to the judgment creditor; ~~or~~ AND

19 ~~(ii)--If-the-personal-property-of-the-principal~~
20 ~~debtor-is-exhausted,-then-to-collect-any-amount--remaining~~
21 ~~unpaid-out-of-the-personal-property-of-any-judgment-debtor~~
22 ~~certified-on-the-docket-as-surety,-and~~

1 ~~(iii)~~(ii) To Make return on the execution
2 within thirty (30) days after receipt showing the manner
3 of execution.

4 (b) IF JUDGMENT IS RENDERED ON A WRITTEN INSTRUMENT
5 AGAINST BOTH THE PRINCIPAL DEBTOR AND HIS SURETY, THE WRIT
6 OF EXECUTION MAY BE LEVIED UPON THE PERSONAL PROPERTY OF
7 THE PRINCIPAL DEBTOR OR THE SURETY IN ANY ORDER.

8 1-21-505. Summoning garnishees to answer interroga-
9 tories. If-the-property,-goods-or-chattels-levied--on--are
10 insufficient--to-satisfy AT ANY TIME AFTER ISSUANCE OF the
11 WRIT OF execution, the officer holding the execution, UPON
12 DEMAND OF THE PLAINTIFF, shall summon in writing as gar-
13 nishees the persons named to him by the plaintiff or his
14 agent, to appear before the justice on a certain day spec-
15 ified in the summons to answer interrogatories ~~touching~~
16 CONCERNING their liabilities as garnishees. The proceed-
17 ings before the justice to final judgment and execution
18 shall be the same as proceedings instituted by attachment
19 in justice court.

20 1-21-509. Right to sue surety. In all cases of
21 surety, the plaintiff may sue the surety upon his bond if
22 the ~~judgment-is~~ CONDITIONS OF THE BOND ARE not satisfied

1 ~~upon-execution~~ PERFORMED.

2 Section 3. W.S. 1-16-203, 1-17-403, 1-17-404,
3 1-17-405(a) and (b), 1-17-406 through 1-17-409 and
4 1-17-601 through 1-17-614 are repealed.

5 Section 4. This act is effective May 22, 1987.

6 (END)

THE LEGISLATURE OF THE STATE OF WYOMING

House of Representatives

Cheyenne, February 10, 1987...

Mr. Speaker:

Your Committee No. 1 on JUDICIARY

to whom was referred Senate File No. 0073

respectfully reports same back to the House with the recommendation that it

DO PASS as amended:

See attached Schedule A.

AYESNOESEXCUSED

Rep. Hansen
 Harrison
 Odde
 Robertson
 Ryckman
 Tate
 Crowley

0

Rohrbach
 Tipton

Ellen Crowley
 ELLEN CROWLEY

Chairman

SCHEDULE A

1
 2 SF0073/
 3 Page 3-line 9 After "creditor" insert "from the time of
 4 service".
 5 Page 3-line 11 After "him" insert "." and delete balance
 6 of line.
 7 Page 4-line 11 Strike "~~thereto~~" insert "TO IT".
 8 Page 4-line 12 Strike "~~him~~" insert "THE OFFICER".
 9 Page 6-line 14 Delete "THEREIN".
 10 Page 6-line 21 Delete "THEREIN".
 11 Page 8-line 4 Strike "~~thereon~~" insert "AGAINST IT".
 12 Page 10-line 13 After "CREDITOR" insert "FROM THE TIME OF
 13 SERVICE".
 14 Page 10-line 14 After "TO" insert "OR DUE TO".
 15 Page 10-line 15 After "DEBTOR" insert "." and delete bal-
 16 ance of line.
 17 Page 10-line 20 After first "the" insert "DISTRICT".
 18 Page 10-line 21 After "or" insert "IN WHICH".
 19 Page 10-line 22 Strike "~~y-and~~" insert "._"; strike "his"
 20 insert "THE".
 21 Page 10-line 23 Strike "~~same~~" insert "JUDGMENT OR
 22 TRANSCRIPT".
 23 Page 11-line 10 Strike "~~as-gar-~~".
 24 Page 11-line 11 Strike "~~nishee~~"; strike "~~to--him~~"; after
 25 "creditor" insert "AS GARNISHEE".
 26 Page 11-line 13 Strike "~~a-certain~~" insert "THE".
 27 Page 11-line 15 Strike "~~thereon~~" insert "CONCERNING THE
 28 LIABILITY OF THE GARNISHEE".
 29 Page 11-line 16 After "execution" insert "IN THE SAME
 30 MANNER"; strike "~~upon~~".
 31 Page 11-line 18 After "execution" insert "AGAINST THE
 32 DEBTOR WAS".
 33 Page 12-line 13 Strike "~~it~~" insert "THE JUDGMENT".
 34 Page 12-line 14 After "judgment" insert "._"; strike "~~due~~".
 35 Page 13-line 12 Strike "~~as-gar-~~".

- 1 Page 13-line 13 Strike "nishees"; strike "to-him".
- 2 Page 13-line 14 After "agent" insert "AS GARNISHEES".

- 1 SF0073HS1/
- 2 Page 3-line 9 After "creditor" insert "from the time of
- 3 service".
- 4 Page 3-line 11 After "him" insert "." and delete balance
- 5 of line.
- 6 Page 4-line 11 Strike "thereto" insert "TO IT".
- 7 Page 4-line 12 Strike "him" insert "THE OFFICER".
- 8 Page 6-line 14 Delete "THEREIN".
- 9 Page 6-line 21 Delete "THEREIN".
- 10 Page 8-line 4 Strike "thereon" insert "AGAINST IT".
- 11 Page 10-line 13 After "CREDITOR" insert "FROM THE TIME OF
- 12 SERVICE".
- 13 Page 10-line 14 After "TO" insert "OR DUE TO".
- 14 Page 10-line 15 After "DEBTOR" insert "." and delete bal-
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- 16 Page 10-line 20 After first "the" insert "DISTRICT".
- 17 Page 10-line 21 After "or" insert "IN WHICH".
- 18 Page 10-line 22 Strike "and" insert "."; strike "his"
- 19 insert "THE".
- 20 Page 10-line 23 Strike "same" insert "JUDGMENT OR
- 21 TRANSCRIPT".
- 22 Page 11-line 10 Strike "as-gar-".
- 23 Page 11-line 11 Strike "nishee"; strike "to--him"; after
- 24 "creditor" insert "AS GARNISHEE".
- 25 Page 11-line 13 Strike "a-certain" insert "THE".
- 26 Page 11-line 15 Strike "thereon" insert "CONCERNING THE
- 27 LIABILITY OF THE GARNISHEE".
- 28 Page 11-line 16 After "execution" insert "IN THE SAME
- 29 MANNER"; strike "upon".
- 30 Page 11-line 18 After "execution" insert "AGAINST THE
- 31 DEBTOR WAS".
- 32 Page 12-line 13 Strike "it" insert "THE JUDGMENT".
- 33 Page 12-line 14 After "judgment" insert "."; strike "due-".
- 34 Page 13-line 12 Strike "as-gar-".
- 35 Page 13-line 13 Strike "nishees"; strike "to-him".
- 1 Page 13-line 14 After "agent" insert "AS GARNISHEES".
- 2 CROWLEY, CHAIRMAN Adopted

DW/

SF0073HW1/A

Page 1-line 1 Before "1-16-102(b)" insert "1-3-105 by creating new subsections (b) and (c),".

Page 2-line 17 After ";" insert "requiring actions for recovery of a deficiency after a foreclosure under a power of sale to be filed within a specified period; prohibiting the issuance of writ of execution after a specified date; limiting applicability of provisions;"

Page 3-line 12 After "W.S." insert "1-3-105 by creating new subsections (b) and (c),".

Page 3-After line 16 Insert:

"1-3-105. Actions other than recovery of real property.

(b) NOTWITHSTANDING SUBSECTION (a) OF THIS SECTION, A CIVIL ACTION UPON A WRITTEN CONTRACT SHALL BE FILED WITHIN THE PERIOD SPECIFIED BY SUBSECTION (c) OF THIS SECTION WHERE UNDER THE CONTRACT:

(i) A MORTGAGE OF REAL ESTATE WAS GIVEN;

(ii) THE MORTGAGE WAS FORECLOSED AND THE REAL ESTATE SOLD UNDER W.S. 34-4-101 THROUGH 34-4-113; AND

(iii) THE PROCEEDS OF THE SALE WERE INSUFFICIENT TO SATISFY THE DEBT.

(c) AN ACTION UNDER SUBSECTION (b) OF THIS SECTION SHALL BE FILED WITHIN ONE HUNDRED EIGHTY (180) DAYS FROM THE DATE THE REAL ESTATE IS REDEEMED UNDER W.S. 1-18-103 OR FROM THE DATE THE REDEMPTION PERIOD EXPIRES UNDER W.S. 1-18-103 WHICHEVER DATE IS EARLIER."

Page 4-line 18 After stricken "net" insert "(a)".

Page 5-After line 3 Insert:

(b) NO WRIT OF EXECUTION SHALL BE ISSUED IN ANY ACTION INVOLVING A CONTRACT DESCRIBED IN W.S. 1-3-105(b) AFTER THREE (3) YEARS FOLLOWING THE DATE THE REAL ESTATE IS REDEEMED UNDER W.S. 1-18-103 OR FROM THE DATE THE REDEMPTION PERIOD EXPIRES UNDER W.S. 1-18-103 WHICHEVER DATE IS EARLIER."

Page 14-After line 4 Insert the following new Section and renumber subsequent Sections accordingly:

"Section 4. W.S. 1-3-105(b) and (c) and 1-17-301(b) do not apply to any contract for which notice of a foreclosure sale was first published under W.S. 34-4-104 before the effective date of this act." HAGEMAN

Adopted