

426.290 Sale of encumbered property under execution -- Rights of purchaser, creditor -- Redemption -- Bond of purchaser of personalty -- Control of courts.

- (1) If the defendant in an execution owns the legal title to any real or personal property on which a bona fide encumbrance created prior to the execution lien exists, the interest of the defendant in the property may be levied on and sold, subject to the encumbrance.
- (2) The purchaser at the sale shall acquire a lien on such property for the purchase money, and interest at the rate of ten percent per annum from the day of sale until paid, subject to any prior encumbrance.
- (3) Any other creditor, whether by judgment or otherwise, may, after such execution and sale, by equitable proceedings, subject the encumbered property to sale, and, after satisfying prior liens, have his demand satisfied out of the proceeds of the residue. The proceedings in equity shall be instituted before the purchaser has, by suit, enforced the lien provided for in subsection (2) of this section.
- (4) The defendant in the execution may redeem the property sold by paying the original encumbrance, with legal interest thereon, and by paying the purchaser his purchase money, with ten percent per annum interest thereon.
- (5) The purchaser of encumbered movable property shall, before possession is delivered to him, give an obligation with good surety payable to the encumbrancer and the owner, stipulating that the property shall not be removed out of the county and shall be preserved and forthcoming, unavoidable accidents excepted, to answer the encumbrance, and for redemption, and deliver the obligation to the officer to be returned with the execution.
- (6) Courts of equity shall have control of all encumbered property sold under execution, and may make all needful orders for the preservation and forthcoming of the property and its issues and profits, to satisfy the encumbrance and to secure the rights of others.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1709.