

CHAPTER 60

INJUNCTIONS

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60.01 Injunction; against levy of execution issued against another than the plaintiff.—When real estate is

levied on, or an attempt to sell it under any execution or other process issued is made, or an attempt to sell it as the property of another person is made, chancery courts have jurisdiction to enjoin the sale on the application of the owner in possession of the real estate.

History.—s. 1, ch. 3432, 1883; RS 1468; GS 1918; RGS 3180; CGL 4972; s. 15, ch. 67-254.

Note.—Former s. 64.07.

60.02 Injunction; against destruction of timber and removal of logs.—Chancery courts have jurisdiction of

actions by any person claiming to own any timbered lands, or the timber, or the right to work for turpentine purposes the timber on any lands in this state, to enjoin trespass on the lands by the cutting of trees thereon, or the removing of logs therefrom, or by boxing or scraping the said trees for the purpose of making turpentine, or by the removal of turpentine therefrom.

History.—s. 2, ch. 3884, 1889; RS 1469, 1470; GS 1919; s. 1, ch. 5682, 1907; RGS 3181; CGL 4973; s. 15, ch. 67-254.

Note.—Former s. 64.08.

60.03 Injunction against removal of mortgaged personal property.—The removal from the state of any

personal property mortgaged to secure a debt which has not matured at the time of the removal may be enjoined by any chancery court within whose territorial jurisdiction the property is located.

History.—RS 1472; GS 1920; RGS 3182; CGL 4974; s. 15, ch. 67-254.

Note.—Former s. 64.09.

60.04 Injunction; sureties on bond of fiduciaries may restrain disposition of principal's property.—

When actions are commenced on the bond of any executor, administrator, guardian or trustee, or for an accounting, the surety on the bond may apply to the court in which the action is pending, if in chancery, or if the action is at law, then to any chancery court having jurisdiction, for an injunction restraining any principal in the bond from disposing of his or her property and from encumbering or removing it from the county in which it is located until the final disposition of the action. If it appears on the application that there is danger that the principal may dispose of his or her property before final judgment so that there will not be sufficient property of the principal to satisfy any judgment that is rendered against the administrator, executor, guardian or trustee, the court shall issue an injunction on such terms as are

proper, enjoining such principal from disposing of his or her property, or so much thereof as is necessary for the protection of the surety until the final disposition of the action. It is not necessary for the surety to show that any amounts are due by said administrator, executor, guardian or trustee but the judge granting the injunction may vacate it on the executor, administrator, guardian or trustee giving adequate security, to be approved by the court, to the surety conditioned to save him or her harmless for all loss or damage he or she sustains as surety.

History.—s. 1, ch. 5406, 1905; RGS 3183; CGL 4975; s. 15, ch. 67-254; s. 317, ch. 95-147.

Note.—Former s. 64.10.

60.05 Abatement of nuisances.—

(1) When any nuisance as defined in s. 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state on his or her relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

(2) The court may allow a temporary injunction without bond on proper proof being made. If it appears by evidence or affidavit that a temporary injunction should issue, the court, pending the determination on final hearing, may enjoin:

- (a) The maintaining of a nuisance;
- (b) The operating and maintaining of the place or premises where the nuisance is maintained;
- (c) The owner or agent of the building or ground upon which the nuisance exists;
- (d) The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with or incident to the maintenance of the nuisance.

The injunction shall specify the activities enjoined and shall not preclude the operation of any lawful business not conducive to the maintenance of the nuisance complained of. At least 3 days' notice in writing shall be given defendant of the time and place of application for the temporary injunction.

(3) Evidence of the general reputation of the alleged nuisance and place is admissible to prove the existence of the nuisance. No action filed by a citizen shall be dismissed unless the court is satisfied that it should be dismissed. Otherwise the action shall continue and the state attorney notified to proceed with it. If the action is brought by a citizen and the court finds that there was no reasonable ground for the action, the costs shall be taxed against the citizen.

(4) On trial if the existence of a nuisance is shown, the court shall issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance and shall adjudge that the costs are a lien on all personal property found in the place of the nuisance and on the failure of the property to bring enough to pay the costs, then on the real estate occupied by the nuisance. No lien shall attach to the real

estate of any other than said persons unless 5 days' written notice has been given to the owner or his or her agent who fails to begin to abate the nuisance within said 5 days.

(5) If the action was brought by the Attorney General, a state attorney, or any other officer or agency of state government; if the court finds either before or after trial that there was no reasonable ground for the action; and if judgment is rendered for the defendant, the costs and reasonable attorney's fees shall be taxed against the state.

History.—ss. 2, 3, 4, ch. 7367, 1917; RGS 3223-3226; CGL 5029-5032; s. 1, ch. 20467, 1941; s. 2, ch. 29737, 1955; s. 15, ch. 67-254; s. 1, ch. 71-268; s. 14, ch. 73-334; s. 1, ch. 77-268; s. 8, ch. 87-243; s. 318, ch. 95-147.

Note.—Former ss. 64.11-64.14.

60.06 Abatement of nuisances; enforcement.—

The court shall make such orders on proper proof as will abate all nuisances mentioned in s. 823.05, and has authority to enforce injunctions by contempt but the jurisdiction hereby granted does not repeal or alter s. 823.01.

History.—s. 5, ch. 7367, 1917; RGS 3227; CGL 5033; s. 15, ch. 67-254.

Note.—Former s. 64.15.

60.07 Assessment of damages after dissolution.—

In injunction actions, on dissolution, the court may hear evidence and assess damages to which a defendant may be entitled under any injunction bond, eliminating the necessity for an action on the injunction bond if no party has requested a jury trial on damages.

History.—ss. 1, 3, ch. 26916, 1951; s. 2, ch. 29737, 1955; s. 15, ch. 67-254.

Note.—Former s. 64.16.