

# SECURED TRANSACTIONS

Fall 2021

Professor Freyermuth

## Module A

### Introduction to the Debtor/Creditor Relationship, Security Interests, and Foreclosure

Read the following:

- The materials appearing at the end of the Problem Set
  - Primer on the Execution Process
  - Selected Provisions from the Missouri Revised Statutes Governing Execution/Levy
- U.C.C. §§ 9-102(a)(52), 9-201, 9-203, 9-317, 9-601, 9-609, 9-610, 9-615, 9-617, and 9-623 (including the Official Comments for those sections).

### MODULE A PROBLEM SET

1. Last year, Mitchell successfully represented Crouch in criminal proceedings. Mitchell had taken a \$5,000 cash retainer, but the total fee ended up being \$15,000. Mitchell sent Crouch an invoice for the remaining \$10,000, which Crouch was to pay within 60 days, but more than 120 days have now passed without payment by Crouch.

Mitchell has come to you seeking advice (and possible representation) in his efforts to collect from Crouch. Mitchell says: “I want you to file a lawsuit against Crouch for the unpaid balance. I want 24% interest on the unpaid balance — that’s what I had to pay when I was late on a bill to my doctor — and I also want punitive damages and attorney’s fees. Sue his employer, too.”

How do you respond? Can Mitchell sue Crouch’s employer and, if so, on what grounds? What additional information, if any, would you like to obtain from Mitchell (or any other legal sources) before rendering your advice or preparing a complaint?

2. For purposes of Problem 2, assume that Landmark Bank has a security interest in Crouch’s Porsche. Further assume that Mitchell has now obtained a judgment against Crouch in the amount of \$10,000 for his unpaid legal services, and he asks the local sheriff to levy on the Porsche and to conduct a sale of the car to be applied toward the satisfaction of Mitchell’s judgment against Crouch.

- a. Can the Sheriff refuse to levy on the car? Why or why not?
- b. Can Bank prevent the Sheriff from levying on the car because Bank has a prior security interest in the car? Why or why not?

- c. If the Sheriff completes an execution sale of the car, and Mitchell buys the car at the execution sale, what title (i.e., what property rights) would Mitchell get? Why?
  - d. Assume the car has a fair market value of \$47,500 (i.e., a willing buyer would pay \$47,500 to purchase the car from a dealer). How much should Mitchell be willing to pay to buy the car at the execution sale from the Sheriff? What additional information, if any, do you need to reach a conclusion?
3. For purposes of this question, assume the same facts as in Problem 2, but now assume that you are representing Landmark Bank. Landmark Bank calls you when it learns of the proposed execution sale and asks “Do we need to be concerned about this sale?” How would you respond?

### **A (Very) Brief Primer on the Execution Process**

Most judgment debtors do not voluntarily pay the judgment; instead, the judgment creditor has to seek judicial relief to obtain satisfaction of the judgment. Execution to enforce a money judgment begins when the judgment creditor files an application for a writ of execution with the clerk of the court that rendered the judgment. The clerk issues the writ (a purely ministerial act), which directs a public official (in most states, the county sheriff) to satisfy the balance of the judgment out of the judgment debtor’s property by seizing that property (this seizure is often referred to as “levy” or “execution”) and selling it. In most states, this process does not start immediately after entry of judgment. Most states require a period of days or weeks (ostensibly, to give the judgment debtor a chance to satisfy the judgment or to appeal the judgment) before the creditor can seek execution. If the debtor appeals the judgment, that does not automatically stay execution; if the debtor wants to stay execution pending appeal, the debtor must post a bond (so as to protect the creditor against any loss the creditor might suffer due to the stay).

All of the debtor’s real estate and personal property are ostensibly subject to levy and execution sale, unless an applicable law allows the debtor to keep the property as exempt (i.e., immune from levy). Each state has an *exemption* statute that specifies that a debtor may keep certain of its property free and clear of the claims of judgment creditors. These statutes vary from state to state, but they typically allow the debtor to keep a certain amount of equity in the debtor’s home, a certain amount of equity in a car, household furnishings and clothing (up to a certain dollar amount in value), “tools of the trade” (e.g., a plumber’s plumbing tools), and jewelry (again, up to a certain dollar amount) rather than losing everything to a judgment creditor’s execution. In this way, the exemption statutes protect against the risk that enforcement of a judgment could literally leave the debtor penniless and thus “a public charge.” In many states, the clerk will not issue a writ of execution until the debtor first has been given an opportunity to identify what property the debtor is claiming as exempt.

Once the writ of execution is issued, the county sheriff can seize any of the debtor’s tangible nonexempt property that it can locate in the county. [If the debtor has property in multiple counties, the creditor must have the judgment “docketed” in the other counties first; in most states, a county sheriff would have no jurisdiction to seize assets located outside that county.] The sheriff cannot literally “seize” land, of course; instead, the sheriff would issue a notice of an execution

sale in the appropriate public record. For tangible items of personal property, the sheriff must actually seize them and physically hold them until the time of the sale. Intangible property, such as payment rights (e.g., accounts receivable owed to the debtor) cannot be physically seized, and thus have to be enforced through ancillary proceedings such as garnishment. For example, if the debtor had done a job for a customer (Smith) and Smith owed the debtor \$10,000, the creditor could bring a garnishment action against Smith (to prevent Smith from satisfying the account debt by paying the \$10,000 directly to the debtor).

The writ of execution should specify the period of time within which the sheriff has to return the writ (this time period is usually specified by state law). During this time, the sheriff must seize whatever nonexempt property of the debtor that the sheriff can find; if the sheriff can find none, the sheriff must return the writ unsatisfied. [In this event, the creditor can seek a further writ, and often does so if the creditor discovers nonexempt property in the debtor's possession.] If the sheriff levies on property, the sheriff then conducts a public auction sale of the debtor's interest in the property, following whatever sale procedures are established by state law. These procedures typically address the time, day, and place of sales and require minimal advertising of the sale, typically legal notices in the classified ads of a local newspaper. Once the sale occurs, the sheriff deducts its costs of sale (e.g., costs of publishing legal notices) and then turns over the net proceeds of the sale to the judgment creditor (for application to the judgment). In the rare event that the sale proceeds exceed the amount of the judgment, the surplus proceeds (after satisfaction of the judgment) are returned to the debtor.

The execution sale itself is an "as is, where is" sale. The buyer receives no warranties of title, and the law of caveat emptor applies. Further, the derivative title principle applies, so that if it turns out that the debtor's title to the property was defective, the buyer's title is likewise defective. For example, suppose that the sheriff levies on and sells a diamond-encrusted Rolex watch that it seized from the judgment debtor, selling the Rolex at an auction sale to Smith for \$10,000. After the sale, Smith discovers that the Rolex had been stolen by the debtor from Jones, who sues Smith to recover possession of the Rolex. Assuming Jones can prove that she possessed a superior right to the Rolex (e.g., that it had been stolen from her), Jones would recover possession of the Rolex and Smith would be out of luck. For this reason (among others), execution sales rarely bring "fair market value" — i.e., they rarely generate a price equal to the price one would expect if the property had been sold in a voluntary, arms-length exchange.

## **SELECTED MISSOURI STATES GOVERNING EXECUTION/LEVY**

### **§ 513.010. Levy and real estate defined.**

1. The word "levy", as used in this chapter, shall be construed to mean the actual seizure of property by the officer charged with the execution of the writ.
2. The term "real estate" as used in this chapter shall be construed to include all estate and interest in lands, tenements and hereditaments, including a manufactured home as defined in section 700.010, which is real estate as defined in subsection 7 of section 442.015.

**§ 513.015. Executions, who may have.** The party in whose favor any judgment, order or decree is rendered, may have an execution in conformity therewith.

**§ 513.020. Executions may issue, when.** Executions may issue upon a judgment at any time within ten years after the rendition of such judgment.

**§ 513.025. General execution, form.** Such execution shall be a fieri facias against the goods, chattels and real estate of the party against whom the judgment, order or decree is rendered, and shall be to the following effect:

The state of Missouri, to the sheriff of the county of .....

Whereas, A B, on the .... day of ....., in the year of our Lord two thousand and ....., at our court, hath recovered against C D, the sum of ....., for debt (or damages, as the case may be), and also for the sum of .... which to the said A B were adjudged for his damages, as well as by reason of detaining the said debt, as for his cost in that suit expended: These are, therefore, to command you, that of the goods and chattels and real estate of the said C D, you cause to be made the debt, damages and costs (or damages and costs), and that you have the same before the judge of said court, on the .... day of ....., to satisfy the debt, damages and costs aforesaid (or damages alone and costs), and that you certify how you execute this writ.

Witness: E F, clerk of the said court, at ....., this .... day of... in the year ....

E F, clerk.

**§ 513.030. Executions, when returnable.** Every execution issued from any court of record shall be made returnable at the next succeeding term, unless the plaintiff, or person to whose use the suit was brought, shall otherwise direct; then it shall be the duty of the clerk issuing the same to make it returnable to the second succeeding term.

**§ 513.035. Executions, where directed and executed.** Executions issued upon any judgment, order or decree rendered in any court of record, may be directed to and executed in any county in this state; and executions may issue at the same time to different counties.

**§ 513.040. Directed to any sheriff in the state, when.** Any party entitled to an execution from a court of record may have it directed as provided in section 513.035, or, at his option, he may have it directed to any sheriff in the state of Missouri; and such execution may be levied, served and returned by any sheriff in this state to whom it may be delivered within the county of which he is sheriff, in like manner and with the same effect as if it had been specially directed to him; but if no property, or not sufficient property to satisfy such execution, can be found in such county, the sheriff, at the option of the plaintiff, may make thereon a return of his proceedings and deliver it to the plaintiff, his agent or attorney, who may deliver the same to the sheriff of any other county in this state, who may levy, serve and return the same, as if it had been directed to him.

**§ 513.045. Duties of clerks in issuing executions.** The clerk shall, before delivering any execution issued by the clerk, endorse thereon the debt, damages and costs, or damages and costs, to be recovered, and shall maintain in his office record, and enter therein an abstract of all executions issued out of his office, showing the date, the names of the parties, amount of debt, damages and costs, or damages and costs to what officer directed, when made returnable, the return, if any, and a reference to the location of the record wherein the judgment or decree whereon such execution issued is entered; and every such clerk shall, moreover, keep a regular index to such abstract of

executions, indexed or arranged alphabetically, both by the name of the plaintiff and defendant therein.

**§ 513.050. Sheriffs and deputies to endorse on execution the time of receipt—rank of writs.**

The several sheriffs and their deputies shall, upon the receipt of a writ of execution, without fee for doing the same, endorse thereon the day of the month and year when they receive the same. If two or more writs shall be delivered on the same day, against the same persons, they shall have equal rank, and be executed accordingly.

**§ 513.085. Execution to be lien, when.** No execution prior to the levy thereof shall be a lien on any goods, chattels or other personal property, or the rights or shares in any stock, or any real estate to which the lien of the judgment, order or decree does not extend; and whenever an execution shall be levied upon real estate, not then charged with the lien of the judgment, order or decree upon which such execution issued, it shall be the duty of the officer making such levy immediately to file with the recorder of deeds of the city or county in which such real estate is situated a notice of such levy, showing the date and style of the execution, the date of levy, the amount of the debt and costs, and a description of the real estate levied upon, which shall be recorded and indexed in a separate volume by the recorder, in the same manner that deeds to real estate are required to be recorded and indexed in a separate volume, and the recording fee therefor shall be charged and collected as other costs; and the failure of said officer to file said notice, as required by this chapter, shall be a breach of his official bond, and any person injured by the failure of the sheriff to file said notice shall have a right of action on said bond.

**§ 513.090. Property which may be sold under attachment and execution.** The following property shall be liable to be seized and sold upon attachment and execution issued from any court of record:

- (1) All goods and chattels not herein exempted;
- (2) All the rights and shares in the stock of any association, joint stock company, bank, insurance company or other corporation;
- (3) All current gold and silver coin, which shall be returned by the officer as so much collected, without exposing the same to sale;
- (4) Any bills, or other evidences of debt, issued by any moneyed corporation, or by the government of the United States, this state, or any other state, belonging to any person against whom an execution shall be issued, at the time such writ shall be delivered to the officer, or at any time thereafter;
- (5) All real estate whereof the defendant, or any person for his use, was seized, in law or equity, at the time of the issue and levy of the attachment, or rendition of the judgment, order or decree whereon execution was issued, or at any time thereafter.

**§ 513.095. Defendant may elect what property shall be sold.** The person against whom any execution shall be issued may elect what property, real or personal, shall be sold to satisfy the same; and if he give to the officer a list of the property so selected sufficient to satisfy such execution, the officer shall levy upon the property, and no other, if in his opinion it is sufficient; if not, then upon such additional property as shall be sufficient.

**§ 513.100. Defendant may elect what property to be first sold.** The person whose goods, chattels and real estate are taken in execution may elect what part thereof shall be first sold; and if he shall deliver to the officer having charge thereof a statement, in writing, of such election, three days before the day appointed for the sale, stating specifically what goods, chattels and real estate he desires to be first sold, and so on, until the execution be satisfied, the officer shall proceed according to such election, until sufficient money shall be made to satisfy the amount in the execution specified and costs.

**§ 513.140. Personal property subject to execution for purchase price, when.** Personal property shall in all cases be subject to execution on a judgment against the purchaser for the purchase price thereof, and shall in no case be exempt from such judgment and execution, except in the hands of an innocent purchaser, for value, without notice of the existence of such prior claim for the purchase money.

**§ 513.145. Sale of personal property—notice of time and place—exception.** No goods and chattels or other personal effects, seized and taken by virtue of any execution, attachment or replevin, shall be sold, until the officer having charge of the writ shall have given ten days' notice of the time and place of sale, and of property to be sold, by at least three advertisements, put up in public places in the township in which the sale is to be made; provided, however, that when any property shall have been actually seized by virtue of either of said writs of execution, attachment or replevin, which is in a perishable condition, or is likely to perish or depreciate in value to any considerable extent before such ten days' notice would expire, then the court may order such property sold by the officer in charge of such writ and property, without notice, for cash, and to the best interests of the parties to such suit, and account for the proceeds to the court before whom such suit is pending.

**§ 513.150. Personal property to be delivered to purchasers—bills of sale thereof given, when.** When the purchaser of any goods or chattels shall pay the purchase money, the officer selling the same shall deliver him such property, and, if desired, shall execute an instrument of writing, testifying the sale and payment of the purchase money, and conveying to such purchaser all the right, title and interest which the debtor had in and to the property sold, on the day the execution was levied thereon.

**§ 513.155. Personal property levied upon may be retained until day of sale, by giving bond.** When the officer charged with the service of an execution shall levy it upon personal property, the defendant may retain possession thereof until the day of sale, by giving bond, in favor of the plaintiff, with sufficient security, to be approved by the officer, in double the value of such property, conditioned for the delivery of the property to such officer at the time and place of sale, to be named in such condition.

**§ 513.160. Property not delivered, levy to remain a lien.** If the property be not delivered according to the condition of the bond, the levy shall remain a lien upon the property taken for the satisfaction of the judgment, into whose possession soever the property may pass.

**§ 513.165. Condition of bond broken, officer may seize property—how sold.** When the condition of the bond shall be broken, as mentioned in section 513.160, the officer may seize any property of the defendant subject to the execution, and sell the same, if personal property, on three days' notice; if real estate, on ten days' notice to satisfy the judgment.

**§ 513.230. When and how to be served.** The notice shall be served as other notices are required to be served by the existing law, at least twenty days before the day of sale, and shall be filed in the office whence the execution issues.

**§ 513.235. Sale, how conducted.** All property taken in execution by any officer shall be exposed to sale on the day for which it is advertised, between the hours of nine in the forenoon and five in the afternoon, publicly, by auction, for ready money, and the highest bidder shall be the purchaser.

**§ 513.255. Sale under junior judgment.** The sale of lands under a junior judgment or decree shall pass the title of the defendant, subject to the lien of all prior judgments and decrees then in force.

**§ 513.260. Proceeds, how applied.** The money arising from such sale shall be applied to the payment of the judgment or decree under which it may have been made.

**§ 513.300. Officer not to purchase property—purchases void.** No officer to whom any execution shall be directed, or any of his deputies, or any person for them, shall purchase any goods or chattels, real estate or other effects, or bid at any sale made by virtue of such execution, and all purchases so made shall be void.

**§ 513.340. Officers refusing to carry out execution liable for amount thereof.** If any officer to whom any execution shall be delivered shall refuse or neglect to execute or levy the same according to law, or shall take in execution any property or any property be delivered to him by any person against whom an execution is issued, and he shall neglect or refuse to make sale of the property so taken or delivered, according to law, or shall make a false return of such writ, then, in any of the cases aforesaid, such officer shall be liable and bound to pay the whole amount of money in such writ specified, or thereon endorsed and directed to be levied; and if such officer shall not, on the return of such writ, or at the time the same ought to be returned, have the money which he shall become liable to pay as aforesaid before the court, and pay the same according to the exigency of the writ, any person aggrieved thereby may have his action against such officer and his sureties upon his official bond, or may have his remedy by civil action against such officer in default.

**§ 513.345. Officer liable on his bond for refusal to perform duty.** If any officer to whom any execution shall be delivered shall not return the same according to law and the command of the writ, such officer and his sureties shall be liable to pay the damages sustained by such default, to be recovered by the party aggrieved, by action upon the official bond of the officer, or by civil action against such officer.

**§ 513.375. Any person owing defendant may pay officer, how.** After the issuing of an execution, any person indebted to the defendant therein may pay to the sheriff or other officer charged with the collection thereof, the amount of the debt owing by such person to such defendant, or so much thereof as shall be necessary to satisfy the execution and costs, and the officer's receipts shall be a sufficient discharge for the amount paid.

**§ 513.380. Examination of judgment debtor, when, procedure—grant of use immunity.**

1. Whenever an execution against the property of any judgment debtor, individual or corporate, issued from any court in this state, shall be returned unsatisfied, in whole or in part, by any sheriff or other proper officer, the judgment creditor in such execution, his executor, administrator or assign, may, at any time within five years after such return so made, be entitled to an order by the court rendering such judgment, requiring the judgment debtor or, in the case of a corporate

judgment debtor, its chief officer to appear before such court at a time and place in said order to be named, to undergo an examination under oath touching his ability and means to satisfy said judgment, and in case of neglect or refusal on the part of such judgment debtor or, in the case of a corporate debtor, its chief officer to obey such order, such court is hereby authorized to issue a writ of attachment against said debtor, as now provided by law, and to punish him or, in the case of a corporate debtor, its chief officer for contempt.

2. Any prosecuting attorney or circuit attorney may grant use immunity from prosecution to a judgment debtor for any statement made at a judgment debtor's examination conducted pursuant to subsection 1 of this section. Such use immunity from prosecution shall protect such person from prosecution for any offense related to the content of the statements made.

**§ 513.385. Showing of reasonable ground for order required.** The order above provided for shall issue only in case it be made to appear to the court or judge, by affidavit or other evidence satisfactory to the court or judge, that there is reasonable ground to believe that such judgment debtor has property subject to execution, or has conveyed or attempted to convey his property, with a design to defraud, hinder or delay his creditors, such affidavit to be made to the best of the knowledge and belief of the affiant.

**§ 513.430. Property exempt from attachment—benefits from certain employee plans, exception—bankruptcy proceeding, fraudulent transfers, exception—construction of section.**

1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

- (1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed three thousand dollars in value in the aggregate;
- (2) A wedding ring not to exceed one thousand five hundred dollars in value and other jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;
- (3) Any other property of any kind, not to exceed in value six hundred dollars in the aggregate;
- (4) Any implements or professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed three thousand dollars in value in the aggregate;
- (5) Any motor vehicles, not to exceed three thousand dollars in value in the aggregate;
- (6) Any mobile home used as the principal residence but not attached to real property in which the debtor has a fee interest, not to exceed five thousand dollars in value;
- (7) Any one or more unmatured life insurance contracts owned by such person, other than a credit life insurance contract, and up to fifteen thousand dollars of any matured life insurance proceeds for actual funeral, cremation, or burial expenses where the deceased is the spouse, child, or parent of the beneficiary;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmaturing life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within one year prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a local public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed seven hundred fifty dollars a month;

(e) [certain payments under certain qualified stock bonus plans, pension plans, disability or death benefit plans, profit-sharing plans, annuity plans and the like];

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a [qualified] retirement plan or profit-sharing plan .... Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services....

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(12) Firearms, firearm accessories, and ammunition, not to exceed one thousand five hundred dollars in value in the aggregate.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary

in, a retirement plan which is qualified pursuant to Sections 408 and 408A of the Internal Revenue Code of 1986, as amended.

**§ 513.436. Exemption limited by lien.** No property upon which a debtor has voluntarily granted a lien shall, to the extent of the balance due on the debt secured thereby, be subject to the provisions of this chapter or be exempt from attachment or execution.

**§ 513.440. Other property exempt—provisions—exceptions.** Each head of a family may select and hold, exempt from execution, any other property, real, personal or mixed, or debts and wages, not exceeding in value the amount of one thousand two hundred fifty dollars plus three hundred fifty dollars for each of such person's unmarried dependent children under the age of twenty-one years or dependent as defined by the Internal Revenue Code of 1986, as amended, determined to be disabled by the Social Security Administration, except ten percent of any debt, income, salary or wages due such head of a family.

**§ 513.445. Officer shall apprise party of right to select, notice, contents—claims for exemption, how made, when—selection, how made—oath administered—court review of exemption claim, when, notice.**

1. It shall be the duty of the officer in whose hands any execution may come, within three days after he shall have levied the same, to apprise the person against whom such execution has issued that an execution has been levied and of the property exempt, if any, under sections 513.430 and 513.440, and his right to hold the same as exempt from attachment and execution, together with the fact, generally stated, that there are certain exemptions under state and federal law which the judgment debtor may be able to claim with respect to the property levied upon, and describing the procedure for claiming same as exempt. The notice shall also inform the person against whom such execution was issued of the manner in which he may obtain a specific description of the property upon which the levy was made. Such notice may be served in the same manner as a summons, or by mailing same to the judgment debtor at his last known address by United States regular mail. Service by mail shall be complete upon mailing.

2. The judgment debtor may make claim for exemption by filing a verified request with the levying officer within twenty days after notice of the levy. Upon receipt of a verified request, the levying officer shall notify the party requesting the execution forthwith that a claim of exemption has been filed, except that where the levy is in the form of a garnishment upon the judgment debtor's wages, no such notification is required. The levying officer may summon three disinterested householders, who, after being sworn honestly and impartially to appraise the property exhibited to them, shall proceed to appraise and set apart to said judgment debtor the property exempt to him under this chapter, and the officer levying such execution shall have authority to administer the oaths required by this section.

3. The levying officer shall release from the execution items of cash or property selected by the judgment debtor to the extent required by law. The judgment debtor or any other party aggrieved by the action of the levying officer, or by the failure of the levying officer to act within five days of the filing of the request for exemptions, may have the exemption claim reviewed and determined by the court by filing a request for court review. Any such hearing shall be expedited by the court and shall be held not later than thirty days after the filing of the request for court review, upon no less than three days' notice to all parties in interest.