

CHAPTER 667

SEIZURE OF BOATS OR RAFTS

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667.1 Seizure.

In an action brought against the owners of any boat or raft to recover any debt contracted by such owner, or by the master, agent, clerk, or consignee thereof, for supplies furnished, or for labor done in, about, or on such boat or raft, or for materials furnished in building, repairing, fitting out, furnishing, or equipping the same, or to recover for the nonperformance of any contract relative to the transportation of persons or property thereon, made by any of the persons aforementioned, or to recover damages for injuries to persons or property done by such boat or raft or the officers or crew thereof in connection with its business, a warrant may issue for the seizure of the same as herein provided.

[C51, §2116; R60, §3693, 3698, 3700; C73, §3432, 3445, 3447; C97, §4402; C24, 27, 31, 35, 39, §12558; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.1]

667.2 Petition and warrant.

The petition must be in writing, sworn to, and filed with the clerk who shall thereupon issue a warrant to the proper officer, commanding the officer to seize the boat or raft, its apparel, tackle, furniture, and appendages, and detain the same until released by due course of law.

[C51, §2121; R60, §3701; C73, §3433; C97, §4403; C24, 27, 31, 35, 39, §12559; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.2]

Referred to in §602.8102(117)

667.3 Warrant issued on Sunday.

The warrant may be issued on Sunday, if the plaintiff, the plaintiff's agent, or attorney states in the petition that it would be unsafe to delay proceedings.

[R60, §3702; C73, §3434; C97, §4404; C24, 27, 31, 35, 39, §12560; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.3]

[P] Analogous or related provisions, §602.1602, 626.6, 639.5, and 643.3

667.4 Service of notice.

It shall be sufficient service of the original notice in such an action to serve it on the defendant, or on the master, agent, clerk, or consignee of such boat or raft; if neither of them can be found, it may be served by posting a copy thereof on some conspicuous part of the same.

[C51, §2122; R60, §3703; C73, §3435; C97, §4405; C24, 27, 31, 35, 39, §12561; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.4]

667.5 Service of warrant.

Any marshal of any city may execute the warrant.

[R60, §3704; C73, §3436; C97, §4406; C24, 27, 31, 35, 39, §12562; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.5]

[P] Approval of warrant and expenses, §70A.12, 70A.13

667.6 Who may appear.

Any persons interested in the property seized may appear for the defendant in person or by an agent or attorney, and defend the action, and no continuance shall be granted to the plaintiff while the property is held in custody.

[C51, §2123; R60, §3705; C73, §3437; C97, §4407; C24, 27, 31, 35, 39, §12563; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.6]

667.7 Bond to discharge.

The property seized may be discharged at any time before final judgment, by giving a bond with sureties, to be approved by the officer executing the warrant, or by the clerk who issued it, in a penalty double the plaintiff's demand, conditioned that the obligors therein will pay the amount which may be found due to the plaintiff, together with the costs.

[C51, §2124; R60, §3706; C73, §3438; C97, §4408; C24, 27, 31, 35, 39, §12564; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.7]

[P] Similar provisions, §639.42, 639.45, 643.12

667.8 Special execution.

If judgment is rendered for the plaintiff before the property is thus discharged, a special execution shall be issued against it. If it has been previously discharged, the execution shall issue against the principal and sureties in the bond without further proceedings.

[C51, §2125; R60, §3707; C73, §3439; C97, §4409; C24, 27, 31, 35, 39, §12565; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.8]

667.9 Sale.

The officer must first sell the furniture or appendages of the boat or raft, if by so doing the officer can satisfy the demand. If the officer sells the boat or raft, the officer must do so to the bidder who will advance the amount required to satisfy the execution for lowest fractional share thereof, unless the person defending desires a different and equally convenient mode of sale. The officer making the sale shall execute a bill of sale to the purchaser for the interest sold.

[C51, §2126; R60, §3708; C73, §3440; C97, §4410; C24, 27, 31, 35, 39, §12566; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.9]

667.10 Fractional share sold.

If a fractional share of the boat or raft is thus sold, the purchaser shall hold such share or interest jointly with the other owners.

[C51, §2127; R60, §3709; C73, §3441; C97, §4411; C24, 27, 31, 35, 39, §12567; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.10]

667.11 Appeal.

If an appeal is taken by the defendant before the property is discharged as above provided, the appeal bond, if one is filed, will have the same effect in discharging it as the bond above contemplated, and execution shall issue against the obligors therein after judgment in the same manner.

[C51, §2128; R60, §3710; C73, §3442; C97, §4412; C24, 27, 31, 35, 39, §12568; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.11]

[P] Presumption of approval of bond, §636.10

667.12 Rights saved.

Nothing herein contained is intended to affect the rights of a plaintiff to sue in the same manner as though the provisions of this chapter had not been enacted.

[C51, §2129; R60, §3711; C73, §3443; C97, §4413; C24, 27, 31, 35, 39, §12569; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.12]

667.13 Contract alleged.

In actions commenced in accordance with the provisions of this chapter, it is sufficient to allege the contract to have been made with the boat or raft itself.

[C51, §2130; R60, §3712; C73, §3444; C97, §4414; C24, 27, 31, 35, 39, §12570; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.13]

667.14 Lien.

Claims growing out of either of the above causes shall be liens upon the boat or raft, its tackle, and appendages, for the term of twenty days from the time the right of action therefor accrued.

[R60, §3699; C73, §3446; C97, §4415; C24, 27, 31, 35, 39, §12571; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.14]

667.15 Appearance by executing bond.

The execution by or for the owner of such boat or raft of a bond, whereby possession of the same is obtained or retained by the owner, shall be an appearance of such owner as a defendant to the action.

[R60, §4130; C73, §3448; C97, §4416; C24, 27, 31, 35, 39, §12572; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.15]