

5 which the same relates. This section shall not exempt any person
6 from prosecution for perjury.

[C. C. 934, 1853, 1903, 7319, modified.]

That section twenty-eight (28) of the compiled code of Iowa is amended, revised and codified to read as follows:

1 **SEC. 4. Witnesses—attendance compulsory.** Whenever a commit-
2 tee of either house, or a joint committee of both, is charged with an
3 investigation requiring the personal attendance of witnesses, any per-
4 son may be compelled to appear before such committee as a witness,
5 by serving an order upon him, which service shall be made in the
6 manner required in case of a subpoena in a civil action in the district
7 court, such order stating the time and place he is required to appear,
8 signed by the presiding officer of the house appointing the committee,
9 and attested by its acting secretary or clerk; or, in case of a joint
10 committee, signed and attested by such officers of either house.

[C. C. 28, modified.]

Approved February 16, A. D. 1923.

CHAPTER 237

HOMESTEAD

S. F. 79

AN ACT to amend, revise and codify chapter four (4) of title twenty-three (23) of the compiled code of Iowa, relating to homestead.

Be it enacted by the General Assembly of the State of Iowa:

That chapter four (4) of title twenty-three (23) of the compiled code of Iowa is amended, revised and codified to read as follows:

CHAPTER 4

HOMESTEAD

1 **SECTION 1. Homestead defined.** The homestead must embrace the
2 house used as a home by the owner, and, if he has two (2) or more
3 houses thus used, he may select which he will retain. It may contain
4 one (1) or more contiguous lots or tracts of land, with the building
5 and other appurtenances thereon, habitually and in good faith used
6 as part of the same homestead.

[C. C. 6419.]

1 **SEC. 2. Extent—dwelling—appurtenances—value.** If within a city
2 or town plat, it must not exceed one-half ($\frac{1}{2}$) acre in extent, other-
3 wise it must not contain in the aggregate more than forty (40) acres,
4 but if, in either case, its value is less than five hundred dollars
5 (\$500.00), it may be enlarged until it reaches that amount. It must
6 not embrace more than one (1) dwelling house, or any other buildings

7 except such as are properly appurtenant thereto, but a shop or other
8 building situated thereon, actually used and occupied by the owner
9 in the prosecution of his ordinary business, and not exceeding three
10 hundred dollars (\$300.00) in value, is appurtenant thereto.

[C. C. 6420.]

1 **SEC. 3. Selecting—platting.** The owner, husband or wife, may
2 select the homestead and cause it to be platted, but a failure to do
3 so shall not render the same liable when it otherwise would not be,
4 and a selection by the owner shall control. When selected, it shall
5 be marked off by permanent, visible monuments, and the description
6 thereof shall give the direction and distance of the starting point from
7 some corner of the dwelling, which description, with the plat, shall
8 be filed and recorded by the recorder of the proper county in the
9 homestead book, which shall be, as nearly as may be, in the form
10 of the record books for deeds, with an index kept in the same manner.

[C. C. 6421.]

1 **SEC. 4. Platted by office having execution.** Should the homestead
2 not be platted and recorded at the time levy is made upon real property
3 in which a homestead is included the officer having the execution shall
4 give notice in writing to said owner, and the husband or wife of such
5 owner, if found within the county to plat and record the same within
6 ten (10) days after service thereof; after which time said officer shall
7 cause said homestead to be platted and recorded as above, and the
8 expense thereof shall be added to the costs in the case.

[C. C. 6421.]

1 **SEC. 5. Boundaries fixed by court.** Upon application made to the
2 district court by any creditor of the owner of the homestead, or other
3 person interested therein, such court shall hear the cause upon the
4 proof offered, and fix and establish the boundaries thereof, and the
5 judgment therein shall be filed and recorded in the manner provided
6 in the preceding section.

[C. C. 6422.]

1 **SEC. 6. Changes.** The owner may, from time to time, change the
2 limits of the homestead by changing the metes and bounds, as well
3 as the record of the plat and description, or vacate it, but such
4 changes shall not prejudice conveyances or liens made or created
5 previously thereto, and no such change of the entire homestead, made
6 without the concurrence of the husband or wife, shall affect his or
7 her rights, or those of the children.

[C. C. 6423.]

1 **SEC. 7. Referees to determine exemption.** When a disagreement
2 takes place between the owner and any person adversely interested,
3 as to whether any land or buildings are properly a part of the home-
4 stead, the sheriff shall, at the request of either party, summon nine
5 (9) disinterested persons having the qualifications of jurors. The
6 parties then, commencing with the owner, shall in turn strike off one
7 (1) person each, until three (3) remain. Should either party fail
8 to do so, the sheriff may act for him, and the three (3) as referees
9 shall proceed to examine and ascertain all the facts of the case, and

10 report the same, with their opinion thereon, to the next term of
11 court from which the execution or other process may have issued.

[C. C. 6424.]

1 **SEC. 8. Referring back—marking off—costs.** The court in its dis-
2 cretion may refer the whole or any part of the matter back to the
3 same or other referees, to be selected in the same manner, or as the
4 parties agree, giving them directions as to the report required of
5 them. When the court is sufficiently advised in the case, it shall make
6 its decision, and may direct the homestead to be marked off anew, or a
7 new plat and description to be made and recorded, and take such other
8 steps as shall be lawful and expedient in attaining the purpose of
9 this chapter. It shall also award costs in accordance with the practice
10 in other cases, as nearly as may be.

[C. C. 6425.]

1 **SEC. 9. Change of circumstances.** The extent or appurtenances of
2 the homestead thus established may be called in question in like man-
3 ner, whenever a change in value or circumstances will justify such
4 new proceedings.

[C. C. 6426.]

1 **SEC. 10. Occupancy by surviving spouse.** Upon the death of either
2 husband or wife, the survivor may continue to possess and occupy the
3 whole homestead until it is otherwise disposed of according to law,
4 but the setting off of the distributive share of the husband or wife
5 in the real estate of the deceased shall be such a disposal of the home-
6 stead as is herein contemplated.

[C. C. 6427.]

1 **SEC. 11. Survivor may take homestead—descends to issue.** The
2 survivor may elect to retain the homestead for life in lieu of such
3 share in the real estate of the deceased; but if there be no survivor,
4 the homestead descends to the issue of either husband or wife accord-
5 ing to the rules of descent, unless otherwise directed by will.

[C. C. 6427.]

1 **SEC. 12. Conveyance or incumbrance of homestead.** No conveyance
2 or incumbrance of or contract to convey or incumber the homestead,
3 if the owner is married, is valid, unless the husband and wife join in
4 the execution of the same joint instrument, whether the homestead
5 is exclusively the subject of the contract or not, but such contracts
6 may be enforced as to real estate other than the homestead at the
7 option of the purchaser or incumbrancer.

[C. C. 6416.]

1 **SEC. 13. Devise of homestead.** Subject to the rights of the sur-
2 viving husband or wife, the homestead may be devised like other real
3 estate of the testator.

[C. C. 6429.]

1 **SEC. 14. Removal of spouse or children from homestead.** Neither
2 husband nor wife can remove the other nor the children from the
3 homestead without the consent of the other.

[C. C. 6430.]

1 **SEC. 15. Homestead exempt to family and divorced spouse.** The
2 homestead of every family, whether owned by the husband or wife,
3 is exempt from judicial sale, where there is no special declaration of
4 statute to the contrary, and such right shall continue in favor of the
5 party to whom it is adjudged by divorce decree during continued per-
6 sonal occupancy by such party.

[C. C. 6414, 6415.]

1 **SEC. 16. Family defined.** A widow or widower, though without
2 children, shall be deemed a family within the meaning of this chapter,
3 while continuing to occupy the real estate used as a homestead at the
4 death of the husband or wife.

[C. C. 6415.]

1 **SEC. 17. Exemption in hands of issue.** Where the homestead de-
2 scends to the issue of either husband or wife the same shall be held
3 by such issue exempt from any antecedent debts of their parents or
4 their own, except those of the owner thereof contracted prior to its
5 acquisition.

[C. C. 6427.]

1 **SEC. 18. New homestead exempt.** Where there has been a change
2 in the limits of the homestead, or a new homestead has been acquired
3 with the proceeds of the old, the new homestead, to the extent in value
4 of the old, is exempt from execution in all cases where the old or
5 former one would have been.

[C. C. 6423, modified.]

1 **SEC. 19. For what debts homestead liable.** The homestead may
2 be sold to satisfy debts of each of the following classes:

3 1. Those contracted prior to its acquisition, but then only to satisfy
4 a deficiency remaining after exhausting the other property of the
5 debtor, liable to execution.

6 2. Those created by written contract by persons having the power
7 to convey, expressly stipulating that it shall be liable, but then only
8 for a deficiency remaining after exhausting all other property pledged
9 by the same contract for the payment of the debt.

10 3. Those incurred for work done or material furnished exclusively
11 for the improvement of the homestead.

12 4. If there is no survivor or issue, for the payment of any debts
13 to which it might at that time be subjected if it had never been held
14 as a homestead.

[C. C. 6417, 6418, 6428.]

Approved March 9, A. D. 1923.