

Remedies Controlling Personal Action

CHAPTER 585

INJUNCTIONS

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585.01 ISSUANCE; EFFECT ON RUNNING OF TIME. The writ of injunction shall issue when ordered by the court or a judge thereof, and shall be tested and sealed as other process. The period during which the performance of an act is stayed by injunction shall form no part of the time within which such performance is allowed or required by law.

[R. L. s. 4258] (9385)

585.02 TEMPORARY INJUNCTION, WHEN AUTHORIZED. When it appears by the complaint that the plaintiff is entitled to the relief demanded, and such relief consists wholly or partly in restraining the commission or continuance of some act which, if permitted during the litigation, would work injury to the plaintiff, or when during the litigation it appears that the defendant is about to do, or is doing, or threatening, procuring, or suffering to be done, some act in violation of plaintiff's rights respecting the subject of the action, and tending to make the judgment ineffectual, a temporary injunction may be granted to restrain such act. Where, during the pendency of an action, it appears by affidavit that the defendant threatens or is about to remove or dispose of his property, with intent to defraud his creditors, a temporary injunction may be granted to restrain such removal or disposition.

[R. L. s. 4259] (9386)

585.03 NOTICE OF APPLICATION; RESTRAINING ORDER. Such injunction shall be granted only upon motion or order to show cause, but the defendant may be restrained by order until the decision of the court or judge granting or refusing the same. It may be granted at the time of commencing the action, or at any time afterwards before judgment, upon its appearing satisfactorily to the court or judge, by affidavit, that sufficient grounds exist therefor. A copy of the affidavit must be served with the injunction. No order restraining a sale of real estate upon execution or foreclosure by advertisement shall be made unless the rights of the applicant would be prejudiced, nor unless a satisfactory excuse be shown for the failure to apply for the injunction in time for a hearing upon notice before the day of sale.

[R. L. s. 4260] (9387)

585.04 BOND REQUIRED; DAMAGES, HOW ASCERTAINED. When not otherwise especially provided by law, the applicant for the writ, before the same issues, shall give a bond in the penal sum of a least \$250, executed by him or some person for him as principal, approved by the court or judge, conditioned for the payment to the party enjoined of such damages as he shall sustain by reason of the writ, if the court finally decides that the party was not entitled thereto. The court, on motion, may require additional security and, upon failure to furnish the same, shall dissolve the injunction. The amount of the damages may be ascertained by a reference or otherwise, as the court shall direct, in which case the sureties shall be concluded as to the amount, but the damages shall be recoverable only in an action on the bond.

[R. L. s. 4261] (9388)