

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.3105 Mortgage; land contract; foreclosure proceeding; unsatisfied execution on judgment at law; separate proceeding; consolidation.

Sec. 3105.

(1) If a judgment has been obtained in any other civil action for the money, or part thereof, demanded in the complaint in an action to foreclose a mortgage on real estate or a land contract, no proceeding shall be had in the action to foreclose unless the sheriff or other proper officer has returned an execution as unsatisfied, in whole or in part, and certified that he can find no property of the defendant out of which to satisfy the execution except the mortgaged premises.

(2) After a complaint has been filed to foreclose a mortgage on real estate or land contract, while it is pending, and after a judgment has been rendered upon it, no separate proceeding shall be had for the recovery of the debt secured by the mortgage, or any part of it, unless authorized by the court.

(3) When a complaint is filed to foreclose a trust mortgage or deed of trust given to secure notes, bonds, or other evidences of indebtedness, the court may at any time before final judgment require all cases begun subsequent to the filing of the foreclosure complaint, by plaintiffs holding notes, bonds, or other evidences of indebtedness secured by the mortgage, to be consolidated with the action to foreclose, and the court may adjudicate the rights of the individual security holders.

History: 1961, Act 236, Eff. Jan. 1, 1963