

INSIDE THE COURTS

CIVIL PROCESS ISSUES or How to Reap what you have Sown

Judge John E. Jordan
Circuit Judge
Ninth Judicial Circuit
April 21, 2015

How To Collect a Judgment In Florida

How do I Collect a Judgment?

If you win a lawsuit for money, you will get a copy of the Court's judgment stating the amount of money the losing party must pay to you. The losing party is called the *judgment debtor*, and you, the winner, are called the *judgment creditor*.

If the judgment debtor does not pay, you are entitled to get the sheriff to seize the judgment debtor's property. The seizing of property by the sheriff is called a *levy*. Once the sheriff has levied on the property, the sheriff will then sell it, and pay you out of the money the sheriff receives from the sale. This process is called *execution*. There are a number of steps you must take.

What steps do I have to take?

Step 1. Once you get your judgment, you should first **obtain a judgment lien** by recording a *Judgment Lien Certificate* with the Department of State. This is not always crucial, but it is a very good idea. We will explain below why it is a good idea and how you do it.

Step 2. In order to get the sheriff to levy upon (to seize) the judgment debtor's property, you must first **locate the property**. The sheriff won't do this for you. Remember that there are many kinds of property the sheriff can seize. Land and buildings are called *real property*. Movable things, like cars, horses, boats, furniture, and jewelry are called *personal property*.

There are some kinds of property the sheriff cannot levy on. The main kind of property the sheriff cannot seize is a person's home. A person's homestead is *exempt* from execution. The judgment debtor may also select personal property worth up to \$1,000, and one motor vehicle worth up to \$1,000, as exempt property. Only people have exemptions. If your judgment is against a corporation or a partnership, the sheriff can seize all of its property. Of course, the sheriff can only levy on property the judgment debtor truly owns - not property owned by somebody else, such as leased property.

Step 3. Once you have located property the sheriff can seize, you take your judgment to the Clerk of the Court that issued the judgment and ask for a document called a **Writ of Execution**. This tells the sheriff to seize property of the judgment debtor to satisfy your judgment. You then deliver the writ to the sheriff's office in the county in which the property is located. You must also give the sheriff written instructions, called **Instructions for Levy**. These instructions describe the property, and tell the sheriff where it is located.

The sheriff will require you to deposit some money to pay the sheriff's fees and costs. You will get your deposit back if the execution is successful.

Step 4. Before the property can be sold, you have to **check the Department of State's internet website, at www.sunbiz.org, to see if there are any judgment liens** filed under the name of the Judgment Debtor. You must also check for **creditors who have filed UCC security interests** in the name of the Judgment Debtor at www.floridaucc.com. You must notify all of these people of the time and place of the sale. You then give the sheriff a signed affidavit, on which you provide the information contained in all the judgment lien certificates filed against the Judgment Debtor.

Step 5. Once the notices have been sent, the **sale must be properly advertised in a local newspaper**. Then, at the designated time and place, the sheriff will sell the property at a public auction. You can bid at the auction if you want to. The highest bidder for cash in hand pays the price to the sheriff and becomes the owner of the property.

Step 6. The **sheriff will pay out the money received from the sale in this order:**

- First, the sheriff pays the sheriff's costs, and if the sale price covers these costs, you will get your deposit back.
- Second, the sheriff pays you \$500 for your costs (whether you spent that much or not).
- Third, if somebody obtained a Judgment Lien before you did, the sheriff pays that person before paying you. If others have filed before you, the sheriff pays everybody in the order of filing.

If the sheriff runs out of money before getting to you, you get nothing more. **This explains why it is such a good idea to obtain a Judgment Lien as soon as possible. If no judgment liens have ever been filed, the sheriff will pay you first, and anything left over will go back to the judgment debtor. But it's still a good idea to file as soon as possible. If you don't, there is always a chance that somebody might file during the execution process and come in ahead of you.**

IMPORTANT: If you previously delivered a writ of execution to a sheriff, you cannot rely on that. You *must file* a judgment lien certificate before October 1, 2003, in order to hold that place in line.

How Do I Obtain a Judgment Lien On the Debtor's Personal Property?

You can **obtain a judgment lien on all of the judgment debtor's personal property** located anywhere in the state **by filing a Judgment Lien Certificate** with the Department of State. To get the proper form you must go on the Internet to the Department's website: www.sunbiz.org. You can either download the form from the website or have it mailed to you. Once you have filled out the form, you

can either file it and pay the filing fee electronically, or mail it to the Department with the filing fee.

CAUTION: These liens don't last forever. They lapse, meaning they disappear, after 5 years. If there are liens ahead of you, you will move toward the front of the line as they lapse. But your lien will eventually lapse, too. So don't be lazy waiting for somebody else to levy on the debtor's property for you. After 5 years, you can file again and get another judgment lien, but if others have filed after your first filing, you will go to the end of the line.

How Do I Obtain a Judgment Lien on the Debtor's Real Property?

You can obtain a **judgment lien on the judgment debtor's real property by recording a certified copy of your judgment in the real estate records of the county in which the property is located.** For example, in Orange County take certified copy of Final Judgment to the Orange County Comptroller's Official Records Department. Such liens are not recorded with the Department of State. These liens last for ten years and they can be continued for another ten.

You can download forms at www.sunbiz.org or call the Department of State, Division of Corporations, Judgment Liens Section, at 850-245-6011.

IN THE COUNTY COURT OF THE NINTH
JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO: _____

Plaintiff,

vs.

Defendant.

FINAL JUDGMENT AGAINST _____
(DEFENDANT(S)'S NAME)

It is adjudged that the plaintiff(s), _____,
recover from the defendant(s), _____, the sum
of \$ _____ on principal, \$ _____ as prejudgment interest, \$ _____ for attorneys' fees, with
costs of \$ _____, all of which shall bear interest at the rate of _____ % per year as provided by Florida
Statute, for all of which let execution issue.

It is further ordered and adjudged that the defendant(s) shall complete Florida Small Claims Rule form
7.343 (Fact Information Sheet) and return it to the plaintiff's attorney, or to the plaintiff if the plaintiff is not represented
by an attorney, within 45 days from this final judgment, unless the final judgment is satisfied or a motion
for new trial or notice of appeal is filed. **The defendant should NOT file the completed form 7.343
with the court.**

Jurisdiction of this case is retained to enter further orders that are proper to compel the defendant(s) to
complete form 7.343 and return it to the plaintiff's attorney, or the plaintiff if the plaintiff is not
represented by an attorney.



ORDERED at _____, Florida, on _____, 20__.

County Court Judge

Copies furnished to:
PLAINTIFF(S)
DEFENDANT(S)

Plaintiff(s)'s address:

Defendant(s)'s last known address and last four digits of defendant(s)'s Social Security Number
(if known):

| | | | |
|---|----------------------------|---|---|
| FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS | |  |  |
| Home | Contact Us | E-Filing Services | Document Searches |
| Forms | | Help | |

Judgment Lien Information

- Judgment Lien Statute: [55.201-55.209](#), Florida Statutes.
- Liens are valid for five years from original date of filing.
- Writs of Execution are no longer docketed with the Sheriff's office.
- Judgment lien searches are not processed by the Division, search on-line at [Document Searches](#).
- Previously recorded judgment liens must be refiled with the Department of State prior to October 1, 2003, or the lien will become ineffective.
- [How to Collect a Judgment Lien In Florida Under the New Judgment Lien Law.](#)
- Online filing of judgment liens with a credit card is available at [Electronic Filing](#).
- DOS Document Number is the number assigned upon filing of a business entity with the Department of State. DOS document number is a required field when the judgment debtor is a business entity. Search on-line to obtain a business entity's DOS document number, at [Document Searches](#).
- Evidence of filing will be sent to the filer's email address.
- Payment options include credit card only. Sunbiz pre-paid accounts can not be used for payment.
- Do not include a copy of your Judgment order.
- Do not include a self-addressed stamped envelope.

| | | |
|---|---|--|
| <u>Mailing Address:</u> Department of State Division of Corporations Judgment Liens P.O. Box 6250 Tallahassee, FL 32314 | <u>Phone Number:</u> 850-245-6011 | <u>Download:</u> Judgment Lien Forms |
|---|---|--|

Interest Rates: The rate of interest payable on judgments is established in accordance with s.55.03, Florida Statutes.

| | |
|-------------------|--------------|
| 04/01/2015 | 4.75% |
| 01/01/2015 | 4.75% |
| 10/01/2014 | 4.75% |
| 07/01/2014 | 4.75% |
| 04/01/2014 | 4.75% |
| 01/01/2014 | 4.75% |
| 10/01/2013 | 4.75% |
| 07/01/2013 | 4.75% |
| 04/01/2013 | 4.75% |

For historical interest rates, please [click here](#).

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 Copyright © and [Privacy Policies](#)
 State of Florida, Department of State

JUDGMENT LIEN CERTIFICATE

FOR PURPOSES OF FILING A JUDGMENT LIEN, THE FOLLOWING INFORMATION IS SUBMITTED IN ACCORDANCE WITH s. 55.203, FLORIDA STATUTES.

DO NOT PHOTOCOPY THIS FORM PRIOR TO USE.

BAR CODE MUST BE LEGIBLE.



1. JUDGMENT DEBTOR (DEFENDANT) NAME AS SHOWN ON JUDGMENT, IF AN INDIVIDUAL, IS:

LAST NAME FIRST NAME M. I.

MAILING ADDRESS

CITY

ST

ZIP

2. ADDITIONAL JUDGMENT DEBTOR, IF AN INDIVIDUAL, IS:

LAST NAME FIRST NAME M. I.

MAILING ADDRESS

CITY

ST

ZIP

3. JUDGMENT DEBTOR (DEFENDANT) NAME AS SHOWN ON JUDGMENT, IF A BUSINESS ENTITY, IS:

BUSINESS ENTITY NAME

MAILING ADDRESS

CITY

ST

ZIP

4. FEDERAL EMPLOYER IDENTIFICATION NUMBER: _____

5. DEPARTMENT OF STATE DOCUMENT FILE NUMBER: _____

PLEASE CHECK BOX IF DOCUMENT NUMBER IS NOT APPLICABLE

☐

6. JUDGMENT CREDITOR (PLAINTIFF) NAME AS SHOWN ON JUDGMENT OR CURRENT OWNER OF JUDGMENT, IF ASSIGNED:

CREDITOR NAME (S)

MAILING ADDRESS

CITY

ST

ZIP

7. DEPARTMENT OF STATE DOCUMENT FILE NUMBER: _____

PLEASE CHECK BOX IF DOCUMENT NUMBER IS NOT APPLICABLE

☐

8. OWNER'S ATTORNEY OR AUTHORIZED REPRESENTATIVE: (ACKNOWLEDGMENT OF FILING WILL BE SENT TO THIS ADDRESS)

NAME

MAILING ADDRESS

CITY

ST

ZIP

9. AMOUNT DUE ON MONEY JUDGMENT: _____

10. APPLICABLE STATUTORY INTEREST RATE: _____

11. NAME OF COURT:

12. CASE NUMBER:

13. DATE OF ENTRY: _____, _____, _____
MONTH DAY YEAR

THIS SPACE FOR USE BY FILING OFFICE

UNDER PENALTY OF PERJURY, I hereby certify that: (1) The judgment above described has become final and there is no stay of the judgment or its enforcement in effect; (2) All of the information set forth above is true, correct, current and complete; (3) I have not previously filed a Judgment Lien Certificate regarding the above judgment with the Department of State; and, (4) I have complied with all applicable laws in submitting this Judgment Lien Certificate for filing.

SIGNATURE OF CREDITOR OR AUTHORIZED REPRESENTATIVE

PRINT NAME

NON-REFUNDABLE PROCESSING FEE:

JUDGMENT LIEN WITH ONE DEBTOR \$ 20.00

EACH ADDITIONAL DEBTOR \$ 5.00

EACH ATTACHED PAGE, IF NECESSARY \$ 5.00

CERTIFIED COPY REQUESTED \$10.00 ☐

Division of Corporations • P.O. Box 6250 • Tallahassee, FL 32314 • 850-245-6011

Make Checks Payable to: Florida Department of State

Collecting on a Final Judgment

Summary Claims judgments entered in County Courts are enforceable in the manner provided by law. Judgments that are obtained in Florida are enforceable as follows:

Recording the judgment: You may obtain a certified copy of your judgment in any county or counties of Florida where the debtor's real estate in that county for 7 years from the date of recording provided that the judgment contains the address of the person who has a lien as a result of such judgment or a separate affidavit is recorded simultaneously with the judgment stating the address of the person who has a lien as a result of such judgment. A judgment does not become a lien on real estate unless the address of the person, who has a lien as a result of such judgment, is contained in the judgment. The lien may be extended for an additional period of 10 years, by re-recording a certified copy of the judgment prior to the expiration of the lien previously recorded. The one additional period of 10 years shall be effective from the date the judgment is re-recorded. Contact the Clerk of the County Court, Civil Division to obtain the cost for the certified copy and contact Official records of the county where you want to record the judgment to obtain their costs.

Locating Property: There are various ways of finding property your debtor owns. You may inquire at the Division of Motor Vehicles, 2900 Apalachee Parkway, Tallahassee, FL 32399-0500, (850) 488-3881, to see if the debtor owns any vehicles in Florida. Further, the Official Records of the county will show any real property a debtor owns in each county.

HEARING IN AID OF EXECUTION: The purpose of this hearing is to allow a judge, at the request of the judgment creditor, to order a judgment debtor to appear for a hearing in aid of execution, 45 or more days from the date of entry of a judgment. At the hearing the judgment debtor will be required to answer inquiries under oath regarding his earnings, financial status, and any assets available, in excess of exemptions, to be applied towards satisfying the judgment. This procedure is only available to a judgment creditor who is a natural person and was not represented by an attorney prior to judgment. Contact the Clerk of County Court, Civil Division to obtain information on this procedure.

OBTAINING A WRIT OF EXECUTION: You may obtain a Writ of Execution from the Clerk of the County Court and enforce your judgment as provided by law at any time during the 20 year life of the judgment. You can visit www.sunbiz.org for information on enforcing a Writ of Execution.

Writ of Garnishment: A judgment debtor may be owed money by a third person, such as an employer, a bank, or somebody for whom he has agreed to perform work. In such case, you may wish to file for a Writ of Garnishment. A continuing Writ of Garnishment against the wages of a judgment debtor enables an employer to make periodic payments to the creditor from a portion of the debtor's salary, as it becomes due. This procedure continues until the judgment is satisfied or until otherwise provided by court order. You must first file a Motion and pay a fee to the Clerk of the County Court before a Writ can be issued. You may motion for a Writ 10 days after the filing of the judgment.

Judgment from an Automobile Accident: If your judgment is the result of an automobile accident, you may forward a certified copy of your judgment and a copy of the accident report to Department of Highway Safety and Motor Vehicles, Bureau of Financial Responsibility, Tallahassee, FL 32304. Pursuant to Section 324 of the Florida Statutes, the judgment debtor's driving privileges and registration could be revoked.

Exemptions: A judgment debtor may be entitled to certain exemptions. These exemptions may include certain real estate, such as the residence of a debtor, head of a household or family, as well as \$1,000.00 of personal property.

For purposes of the above-stated information, the Clerk of the Court's offices are located at the following locations:

Apopka Office
1111 North Rock Springs Road
Apopka, FL 32703
(407) 836-2007
Free parking

Ocoee Office
475 West Story Road
Ocoee, FL 34761
(407) 836-2007
Free parking

Orlando Office
425 North Orange Avenue, Room 310
Orlando, FL 32801
(407) 836-2000
Garage parking with hourly rate

Winter Park Office
450 North Lakemont Avenue
Winter Park, FL 32792
(407) 836-2007
Free parking

www.myorangeclerk.com

LEVY PACKET REQUIREMENTS

- ORIGINAL WRIT OF EXECUTION
- LEVY INSTRUCTIONS
- ATTORNEYS AFFIDAVIT – PER F.S. 56.27(4)
- JUDGEMENT LEIN CERTIFICATE(S)
- LEVY DEPOSIT

***AFFIDAVIT OF SAME NAME WILL BE REQUIRED
IF NAME VARIES IN ANYWAY.**

LEVY ON REAL PROPERTY REQUIRES:

- COPY OF DEED
- TITLE REPORT OR PROPERTY APPRAISER
PRINT OUT

***AFFIDAVIT OF SAME NAME* (IF THE NAME VARIES
IN ANY WAY ON THE COPY OF THE DEED OR TITLE
REPORT)**

In The

Court,

County, Florida

Case No.:

Plaintiff

vs.

Defendant(s) _____ /

INSTRUCTIONS FOR LEVY

TO THE SHERIFF OF ORANGE COUNTY, FLORIDA

In the matter of an execution for money, issued out of the above styled Court, in the above styled case, you are hereby instructed to reduce the balance of the writ of execution by post judgment payments totalling \$ _____ after which you are to levy upon the following described property of the Defendant:

DESCRIPTION OF PROPERTY

Location of property:

Description of property:

Defendant's last known mailing address:

Defendant's attorney of record:

It is understood and agreed that you, as Sheriff of Orange County, Florida, pursuant to F.S.S. 30.30, shall be held blameless in making a wrongful levy, when acting upon these instructions, and it is further understood and agreed that I shall pay all cost incident to this levy, should the property levied upon, for any reason be not sold, or if upon the sale should not produce sufficient money to pay said cost, unless said cost shall have been paid by the Defendant.

Dated this _____ day of _____, 200__.

By _____
Signature of Plaintiff, his Agent
or Attorney

Name:

Address:

Phone#:

Contact Person:



ORANGE COUNTY SHERIFF'S OFFICE

Sheriff Jerry L. Demings

Judicial Process Fee Schedule

The fees charged by the Judicial Process Unit are in accordance with Florida law, F.S.S. 30.231.
These fees are non-refundable.

| Type of Process | Cost of Individualized Service |
|---|--------------------------------------|
| Summons(per person being served)/Garnishments | \$40.00 |
| Subpoena/Orders, Notices, Evictions | \$40.00 |
| Writ of Assistance | \$40.00 Service \$90.00 Execution |
| Order of Bodily Attachment | \$90.00 |
| Temporary Injunctions | \$40.00 |
| Distress Writ | \$40.00 Service \$90.00 Execution |
| Writ of Attachment | \$90.00 |
| Writ of Replevin | \$90.00 |
| Writ of Possession | \$90.00 |
| Out-of-State Non-Enforceable Process | \$55.00 |
| Child Custody Orders (any form) | \$70.00 (\$40.00 + \$30 S.S.F) |
| Mental Health Exparte Order | \$40.00 |

NOTE: The above fees apply to *Alias* or *Pluries* Documents as of July 1, 2009.
All papers received with insufficient fees attached will be returned to the sender.

Levy Deposits:

\$2,500.00 **Minimum Cost Deposit** for Business
Equipment/Furniture

\$1,700.00 **Minimum Cost Deposit** for any vehicle, single craft, single/double
wide mobile home, travel trailer and each additional craft

\$650.00 **Minimum Cost Deposit** for Stocks, Bonds, Jewelry,
Real Estate, Depositions

\$75.00 **Minimum Cost Deposit** for Locksmith (Break Order is
necessary)

Personal Property (i.e. Household Furnishings): Deposit varies depending on quantity of
items being levied. An inventory list will need to be seen by the Sales Coordinator, Corporal, or
the Sergeant of the Enforceable Writs Section before an amount is determined.

Sheriff's Fees for Levying on Executions:

Docketing and Indexing \$40.00

Prepare Advertisement \$40.00

Bill of Sale/Deed \$40.00

Levy Fee \$50.00

Satisfaction of Judgement \$40.00

Holding Sale \$40.00

In-House Storage Fee \$50.00

***There will be an additional fee of \$40.00 per hour (or any portion thereof) for each Deputy Sheriff required to
standby on the scene after the first hour. The hourly fee also applies to any special services. The actual costs may
be more or less. Levy deposits are refundable after all costs are paid.

Please make checks out to the Orange County Sheriff's Office.

Check and documents can be mailed to:

Orange County Sheriff's Office
Att: Judicial Process Unit
P.O. Box 1440
Orlando, FL 32802

Please make sure to include your name, address, telephone number, email address, and any other pertinent
contact information with your correspondence or request for process services.

You can conduct your business at the Judicial Process Unit
Monday - Friday between 8am - 5pm

425 North Orange Ave, Suite 240
(Orange County Courthouse)
Orlando, FL 32801
Telephone: 407.836.4570

Select Year: 2014

The 2014 Florida Statutes

Title VI CIVIL PRACTICE AND PROCEDURE

Chapter 55 JUDGMENTS

[View Entire Chapter](#)

CHAPTER 55 JUDGMENTS

- 55.01 Judgments; general form.
- 55.03 Judgments; rate of interest, generally.
- 55.04 Judgments; rate of interest, bonds of county, etc.
- 55.05 Judgments; power of attorney to confess invalid.
- 55.07 Judgments; effect of failure to record.
- 55.071 Judgments; effect of invalid affidavit or oath.
- 55.081 Statute of limitations, lien of judgment.
- 55.10 Judgments, orders, and decrees; lien of all, generally; extension of liens; transfer of liens to other security.
- 55.11 Judgments; no lien against municipalities.
- 55.13 Judgments; rights of sureties, etc.
- 55.141 Satisfaction of judgments and decrees; duties of clerk.
- 55.145 Discharge of judgments in bankruptcy.
- 55.146 Certain property exempt.
- 55.201 Central database of judgment liens on personal property.
- 55.202 Judgments, orders, and decrees; lien on personal property.
- 55.203 Judgment lien certificate; content, filing, and indexing.
- 55.204 Duration and continuation of judgment lien; destruction of records.
- 55.205 Effect of judgment lien.
- 55.206 Amendment of judgment lien file; termination, partial release, assignment, continuation, tolling, correction.
- 55.207 Correction of judgment lien file.
- 55.208 Effect of filed judgment lien on writs of execution previously delivered to a sheriff.
- 55.209 Department of State; processing fees, responsibilities.
- 55.501 Florida Enforcement of Foreign Judgments Act; short title.
- 55.502 Construction of act.
- 55.503 Recording and status of foreign judgments; fees.
- 55.505 Notice of recording; prerequisite to enforcement.
- 55.507 Lien; when effective.
- 55.509 Stay of enforcement of foreign judgment.
- 55.601 Uniform Out-of-country Foreign Money-Judgment Recognition Act; short title.
- 55.602 Definitions.
- 55.603 Applicability.
- 55.604 Recognition and enforcement.
- 55.605 Grounds for nonrecognition.
- 55.6055 Foreign defamation judgment.
- 55.606 Personal jurisdiction.
- 55.607 Stay in case of appeal.

55.01 Judgments; general form.—

(1) In all actions where either party recovers a sum of money, the amount to which he or she is entitled may be awarded by the judgment generally, without any distinction being therein made as to whether such sum is recovered by way of debt or damages.

(2) Each final judgment shall contain thereon the address and the social security number, if known to the prevailing party, of each person against whom judgment is rendered. Errors in names, addresses, or social security numbers or failure to include same shall in no way affect the validity or finality of a final judgment.

History.—s. 40, ch. 1096, 1861; RS 1171; GS 1598; RGS 2800; CGL 4486; s. 9, ch. 67-254; s. 1, ch. 79-387; s. 9, ch. 93-250; s. 293, ch. 95-147.

55.03 Judgments; rate of interest, generally.—

(1) On December 1, March 1, June 1, and September 1 of each year, the Chief Financial Officer shall set the rate of interest that shall be payable on judgments or decrees for the calendar quarter beginning January 1 and adjust the rate quarterly on April 1, July 1, and October 1 by averaging the discount rate of the Federal Reserve Bank of New York for the preceding 12 months, then adding 400 basis points to the averaged federal discount rate. The Chief Financial Officer shall inform the clerk of the courts and chief judge for each judicial circuit of the rate that has been established for the upcoming quarter. The interest rate established by the Chief Financial Officer shall take effect on the first day of each following calendar quarter. Judgments obtained on or after January 1, 1995, shall use the previous statutory rate for time periods before January 1, 1995, for which interest is due and shall apply the rate set by the Chief Financial Officer for time periods after January 1, 1995, for which interest is due. Nothing contained herein shall affect a rate of interest established by written contract or obligation.

(2) Any judgment for money damages or order for a judicial sale and any process or writ directed to a sheriff for execution shall bear, on its face, the rate of interest that is payable on the judgment. The rate of interest stated in the judgment, as adjusted in subsection (3), accrues on the judgment until it is paid.

(3) The interest rate is established at the time a judgment is obtained and such interest rate shall be adjusted annually on January 1 of each year in accordance with the interest rate in effect on that date as set by the Chief Financial Officer until the judgment is paid, except for judgments entered by the clerk of the court pursuant to ss. 55.141, 61.14, 938.29, and 938.30, which shall not be adjusted annually.

(4) A sheriff shall not be required to docket and index or collect on any process, writ, judgment, or decree, described in subsection (2), and entered after the effective date of this act, unless such process, writ, judgment, or decree indicates the rate of interest. For purposes of this subsection, if the process, writ, judgment, or decree refers to the statutory rate of interest described in subsection (1), such reference shall be deemed to indicate the rate of interest.

History.—s. 1, ch. 1562, 1866; RS 1176; GS 1604; RGS 2806; CGL 4493; s. 1, ch. 16051, 1933; s. 9, ch. 67-254; s. 7, ch. 77-354; s. 8, ch. 79-396; ss. 1, 2, ch. 80-110; s. 1, ch. 81-113; s. 37, ch. 81-259; s. 8, ch. 94-239; s. 4, ch. 98-410; s. 101, ch. 2003-261; s. 1, ch. 2011-169.

55.04 Judgments; rate of interest, bonds of county, etc.—All judgments and decrees rendered on any bonds or other written evidence of debt of any county, special road and bridge districts or any county for the use and benefit of any special road and bridge districts or incorporated city or town or taxing district bear interest at the rate of 5 percent a year. When a judgment or decree is rendered on a bond or other written evidence of debt providing for a lesser rate of interest, the judgment or decree bears interest at the rate specified in such bond or other written evidence of debt.

History.—s. 1, ch. 16835, 1935; CGL 1936 Supp. 4493(1); s. 9, ch. 67-254.

55.05 Judgments; power of attorney to confess invalid.—All powers of attorney for confessing or suffering judgment to pass by default or otherwise, and all general releases of error, heretofore made or to be made hereafter by any person whatsoever within or without this state, before such action brought, shall be absolutely null and void.

History.—s. 67, Nov. 23, 1828; RS 1178; GS 1606; RGS 2808; CGL 4495; s. 1, ch. 59-321; s. 9, ch. 67-254.

55.07 Judgments; effect of failure to record.—The failure to record any order, judgment or decree shall not affect the validity of any proceedings had thereon when collaterally attacked; provided, rendition of such order, judgment or decree is shown by the progress docket in the cause. This section shall apply to all proceedings heretofore had as well as to those hereafter had.

History.—ss. 1, 2, ch. 12114, 1927; CGL 4496; s. 9, ch. 67-254.

55.071 Judgments; effect of invalid affidavit or oath.—No order, judgment or decree heretofore or hereafter entered (including decrees pro confesso, defaults and judgments by default) which was or shall be predicated on a sworn statement, affidavit or oath shall be set aside or held void or voidable because the officer before whom such sworn statement or affidavit was or shall be made or such oath was or shall be administered was the attorney of record or otherwise the attorney for the person making such sworn statement, affidavit or oath.

History.—s. 1, ch. 22843, 1945; s. 9, ch. 67-254.

55.081 Statute of limitations, lien of judgment.—Subject to the provisions of s. 55.10, no judgment, order, or decree of any court shall be a lien upon real or personal property within the state after the expiration of 20 years from the date of the entry of such judgment, order, or decree.

History.—s. 1, ch. 29954, 1955; s. 9, ch. 67-254; s. 1, ch. 87-67.

55.10 Judgments, orders, and decrees; lien of all, generally; extension of liens; transfer of liens to other security.—

(1) A judgment, order, or decree becomes a lien on real property in any county when a certified copy of it is recorded in the official records or judgment lien record of the county, whichever is maintained at the time of recordation, provided that the judgment, order, or decree contains the address of the person who has a lien as a result of such judgment, order, or decree or a separate affidavit is recorded simultaneously with the judgment, order, or decree stating the address of the person who has a lien as a result of such judgment, order, or decree. A judgment, order, or decree does not become a lien on real property unless the address of the person who has a lien as a result of such judgment, order, or decree is contained in the judgment, order, or decree or an affidavit

with such address is simultaneously recorded with the judgment, order, or decree. If the certified copy was first recorded in a county in accordance with this subsection between July 1, 1987, and June 30, 1994, then the judgment, order, or decree shall be a lien in that county for an initial period of 7 years from the date of the recording. If the certified copy is first recorded in accordance with this subsection on or after July 1, 1994, then the judgment, order, or decree shall be a lien in that county for an initial period of 10 years from the date of the recording.

(2) The lien provided for in subsection (1) or an extension of that lien as provided by this subsection may be extended for an additional period of 10 years, subject to the limitation in subsection (3), by rerecording a certified copy of the judgment, order, or decree prior to the expiration of the lien or the expiration of the extended lien and by simultaneously recording an affidavit with the current address of the person who has a lien as a result of the judgment, order, or decree. The extension shall be effective from the date the certified copy of the judgment, order, or decree is rerecorded. The lien or extended lien will not be extended unless the affidavit with the current address is simultaneously recorded.

(3) In no event shall the lien upon real property created by this section be extended beyond the period provided for in s. 55.081 or beyond the point at which the lien is satisfied, whichever occurs first.

(4) This act shall apply to all judgments, orders, and decrees of record which constitute a lien on real property; except that any judgment, order, or decree recorded prior to July 1, 1987, shall remain a lien on real property until the period provided for in s. 55.081 expires or until the lien is satisfied, whichever occurs first.

(5) Any lien claimed under this section may be transferred, by any person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by either depositing in the clerk's office a sum of money or filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state. Such deposit or bond shall be in an amount equal to the amount demanded in such claim of lien plus interest thereon at the legal rate for 3 years plus \$500 to apply on any court costs which may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment, order, or decree which may be rendered for the satisfaction of the lien for which such claim of lien was recorded and costs plus \$500 for court costs. Upon such deposit being made or such bond being filed, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred, at the address stated therein. Upon the filing of the certificate of transfer, the real property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security. The clerk shall be entitled to a service charge of up to \$15 for making and serving the certificate. If the transaction involves the transfer of multiple liens, an additional service charge of up to \$7.50 for each additional lien shall be charged. Any number of liens may be transferred to one such security.

(6) Any excess of the security over the aggregate amount of any judgments, orders, or decrees rendered, plus costs actually taxed, shall be repaid to the party filing the security or his or her successor in interest. Any deposit of money shall be considered as paid into court and shall be subject to the provisions of law relative to payments of money into court and the disposition of these payments.

(7) Any party having an interest in such security or the property from which the lien was transferred may at any time, and any number of times, file a complaint in chancery in the circuit court of the county where such security is deposited for an order:

- (a) To require additional security;
- (b) To require reduction of security;
- (c) To require change or substitution of sureties;
- (d) To require payment or discharge thereof; or
- (e) Relating to any other matter affecting said security.

History.—s. 1, ch. 10166, 1925; s. 1, ch. 14749, 1931; ss. 1-3, ch. 17998, 1937; s. 2, ch. 19270, 1939; CGL 1940 Supp. 4865(3); s. 9, ch. 67-254; s. 1, ch. 71-56; s. 1, ch. 77-462; s. 2, ch. 87-67; s. 7, ch. 87-145; s. 12, ch. 91-45; s. 10, ch. 93-250; s. 15, ch. 94-348; s. 1357, ch. 95-147; s. 7, ch. 2000-258; s. 1, ch. 2001-130; s. 68, ch. 2003-402; s. 47, ch. 2004-265.

55.11 Judgments; no lien against municipalities.—No money judgment or decree against a municipal corporation is a lien on its property nor shall any execution or any writ in the nature of an execution based on the judgment or decree be issued or levied.

History.—s. 1, ch. 17125, 1935; CGL 1936 Supp. 4492(4); s. 9, ch. 67-254.

55.13 Judgments; rights of sureties, etc.—Any person paying money as surety for the principal in any bond or note, which he or she has signed as surety, upon which judgment has been obtained, shall have the same right to control the said judgment and collect the same, with principal, interest and costs, as the plaintiff creditor would have had if the debt had not been paid. Such judgment, and execution thereon, shall have the same lien on property of the principal as though the surety were the original plaintiff.

History.—ss. 1, 2, ch. 765, 1855; RS 1177; GS 1605; RGS 2807; CGL 4494; s. 9, ch. 67-254; s. 295, ch. 95-147.

55.141 Satisfaction of judgments and decrees; duties of clerk.—

(1) All judgments and decrees for the payment of money rendered in the courts of this state and which have become final, may be satisfied at any time prior to the actual levy of execution issued thereon by payment of the full amount of such judgment or decree, with interest thereon, plus the costs of the issuance, if any, of execution thereon into the registry of the court where rendered.

(2) Upon such payment, the clerk shall execute and record in the official records a satisfaction of judgment upon payment of the

recording charge prescribed in s. 28.24(12). Upon payment of the amount required in subsection (1) and the recording charge required by this subsection and execution and recordation of the satisfaction by the clerk, any lien created by the judgment is satisfied and discharged.

(3) The satisfaction of judgment executed by the clerk must be substantially in the following form:

Satisfaction of Judgment by Clerk

The undersigned Clerk acknowledges on this day of (month) , (year) , receipt from (identity of party making payment) of \$ (total amount received) , comprised of \$ face amount of the judgment; \$ interest accruing on the judgment through the date of payment; \$ costs of issuance of any execution; and \$ for recording.

Pursuant to section 55.141, Florida Statutes, said sum is paid to satisfy the lien and to discharge that certain final judgment in favor of (name of judgment holder) whose last known address, if known, is (address if shown on face of judgment or in recorded affidavit pursuant to section 55.10(1), Florida Statutes.) against (name of judgment debtor) recorded in Official Records Volume/Book , page of the public records of County, Florida.

Upon the execution of this satisfaction, said judgment is satisfied and discharged.

If an address for the judgment holder was provided under section 55.10(1), Florida Statutes, I certify that a copy of this notice has been sent to the judgment holder at said address by certified mail with return receipt requested or by registered mail if the notice is to be sent outside the continental United States.

Clerk of Court

(4) If an address for the judgment holder was provided under s. 55.10(1), the clerk shall formally send a copy of the satisfaction to the judgment holder at that address by certified mail with return receipt or by registered mail if the notice is to be sent outside the continental United States. If an address is not provided under s. 55.10(1) or if delivery cannot be effected to such address, the clerk may, but is not obligated to, make reasonable attempts to locate the judgment holder. The discharge of the lien by the issuance of the satisfaction is not dependent upon the delivery of notice by the clerk.

(5) Upon application of the judgment holder, the clerk shall pay over to the judgment holder the full amount of the payment received, less the clerk's fees for issuing execution on such judgment, if any has been issued; less the clerk's fees for receiving into and paying out of the registry of the court such payment; less the clerk's fees for recording the satisfaction of judgment; and, if the clerk incurred expenses in locating the judgment holder, less the reasonable expenses so incurred.

History.—ss. 1, 2, 3, ch. 22672, 1945; s. 9, ch. 67-254; s. 2, ch. 77-354; s. 4, ch. 82-205; s. 296, ch. 95-147; s. 69, ch. 2003-402; s. 48, ch. 2004-265; s. 1, ch. 2005-241.

Note.—Former s. 55.62.

55.145 Discharge of judgments in bankruptcy.—At any time after 1 year has elapsed since a bankrupt or debtor was discharged from his or her debts, pursuant to the act of congress relating to bankruptcy, the bankrupt or debtor, his or her receiver or trustee, or any interested party may petition the court in which the judgment was rendered against such bankrupt or debtor for an order to cancel and discharge such judgment. The petition shall be accompanied by a certified copy of the discharge of said bankrupt or by a certified copy of the order of confirmation of the arrangement filed by said debtor. The petition, accompanied by copies of the papers upon which it is made, shall be served upon the judgment creditor in the manner prescribed for service of process in a civil action. If it appears upon the hearing that the bankrupt or debtor has been discharged from the payment of that judgment or of the debt upon which it was recovered, the court shall enter an order canceling and discharging said judgment. The order of cancellation and discharge shall have the same effect as a satisfaction of judgment, and a certified copy thereof may be recorded in the same manner as a satisfaction of judgment. This section shall apply only to liens under judgments or obligations duly scheduled in the bankruptcy proceedings.

History.—s. 1, ch. 70-12; s. 297, ch. 95-147.

55.146 Certain property exempt.—All property in this state of a judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan is exempt from forced sale under process of any court, and no such judgment or execution based thereon shall be a lien on such property.

History.—s. 15, ch. 90-343.

55.201 Central database of judgment liens on personal property.—The Department of State shall maintain a database of judgment lien files established in accordance with ss. 55.201-55.209.

History.—s. 8, ch. 2000-258; s. 1, ch. 2001-154.

55.202 Judgments, orders, and decrees; lien on personal property.—

- (1) A judgment lien securing the unpaid amount of any money judgment may be acquired by the holder of a judgment:
 - (a) Enforceable in this state under its laws or the laws of the United States;

- (b) Entered by an issuing tribunal with respect to a support order being enforced in this state pursuant to chapter 88; or
 - (c) Enforceable by operation of law pursuant to s. 61.14(6).
 - (2) A judgment lien may be acquired on a judgment debtor's interest in all personal property in this state subject to execution under s. 56.061, other than fixtures, money, negotiable instruments, and mortgages.
 - (a) A judgment lien is acquired by filing a judgment lien certificate in accordance with s. 55.203 with the Department of State after the judgment has become final and if the time to move for rehearing has lapsed, no motion for rehearing is pending, and no stay of the judgment or its enforcement is then in effect. A court may authorize, for cause shown, the filing of a judgment lien certificate before a judgment has become final when the court has authorized the issuance of a writ of execution in the same matter. A judgment lien certificate not filed in compliance with this subsection is permanently void and of no effect.
 - (b) For any lien, warrant, assessment, or judgment collected by the Department of Revenue, a judgment lien may be acquired by filing the judgment lien certificate information or warrant with the Department of State in accordance with subsection (5).
 - (c) Except as provided in s. 55.208, the effective date of a judgment lien is the date, including the time of day, of filing. Although no lien attaches to property, and a creditor does not become a lien creditor as to liens under chapter 679, until the debtor acquires an interest in the property, priority among competing judgment liens is determined in order of filing date and time.
 - (d) Except as provided in s. 55.204(3), a judgment creditor may file only one effective judgment lien certificate based upon a particular judgment.
 - (3) Except as otherwise provided in s. 55.208, the priority of a judgment lien acquired in accordance with this section or s. 55.204(3) is established at the date and time the judgment lien certificate is filed.
 - (4) As used in ss. 55.201-55.209, the terms "holder of a judgment" and "judgment creditor" include the Department of Revenue with respect to a judgment being enforced by the Department of Revenue as the state IV-D agency.
 - (5) Liens, assessments, warrants, or judgments filed pursuant to paragraph (2)(b) may be filed directly into the central database by the Department of Revenue, or its designee as determined by its executive director, through electronic or information data exchange programs approved by the Department of State. Such filings must contain the information set forth in s. 55.203(1).
- History.—s. 9, ch. 2000-258; s. 2, ch. 2001-154; s. 2, ch. 2002-218; s. 2, ch. 2005-241.

55.203 Judgment lien certificate; content, filing, and indexing.—

- (1) An original judgment lien certificate must include:
 - (a) The legal name of each judgment debtor and, if a recorded legal entity, the registered name and document filing number as shown in the records of the Department of State.
 - (b) The last known address and the social security number or federal employer identification number of each judgment debtor if shown on the judgment itself.
 - (c) The legal name of the judgment creditor and, if a recorded legal entity, the registered name and document filing number as shown in the records of the Department of State, and the name of the judgment creditor's attorney or duly authorized representative, if any.
 - (d) The address of the judgment creditor.
 - (e) The identity of the court which entered the judgment and the case number and the date the written judgment was entered.
 - (f) The amount due on the money judgment and the applicable interest rate.
 - (g) The signature of the judgment creditor or the judgment creditor's attorney or duly authorized representative.
 - (h) With respect to a lien acquired by a delivery of a writ of execution to a sheriff prior to October 1, 2001, an affidavit by the judgment creditor which attests that the person or entity possesses any documentary evidence of the date of delivery of the writ, and a statement of that date or a certification by the sheriff of the date as provided in ¹s. 30.17(4).
- (2) A second judgment lien certificate, as provided in s. 55.204(3), must include the information required in subsection (1) and must state the file number assigned to the file of the original judgment lien certificate, the money amount remaining unpaid, and the interest accrued thereon.
- (3) An amendment, as provided in s. 55.206, or a correction statement, as provided in s. 55.207, must state the file number of the judgment lien file to which the amendment or correction statement relates and must state the action, change, or statement to be added.
- (4) The Department of State shall examine, for compliance with ss. 55.201-55.209, each document submitted for filing and shall accept or reject the document accordingly. For each judgment lien certificate filed, the department shall:
 - (a) Create a file.
 - (b) Assign a unique file number to the record.
 - (c) Include the date and time of filing of the judgment lien certificate.
 - (d) Maintain the file in a database accessible to the public via the Internet.
 - (e) Index the judgment lien certificate according to the name of each judgment debtor.
 - (f) Index all subsequently filed documents relating to an original judgment lien certificate in a manner that associates them to the original judgment lien certificate.
- (5) A judgment lien certificate substantially satisfying the requirements of this section is effective even if it has minor errors or

omissions that make the filing seriously misleading.

(6) The Department of State shall prescribe mandatory forms of all documents to be filed under this section.

History.—s. 10, ch. 2000-258; s. 3, ch. 2001-154.

¹**Note.**—Repealed by s. 5, ch. 2005-2.

55.204 Duration and continuation of judgment lien; destruction of records.—

(1) Except as provided in this section, a judgment lien acquired under s. 55.202 lapses and becomes invalid 5 years after the date of filing the judgment lien certificate.

(2) Liens securing the payment of child support or tax obligations under s. 95.091(1)(b) lapse 20 years after the date of the original filing of the warrant or other document required by law to establish a lien. Liens securing the payment of reemployment assistance tax obligations lapse 10 years after the date of the original filing of the notice of lien. A second lien based on the original filing may not be obtained.

(3) At any time within 6 months before or 6 months after the scheduled lapse of a judgment lien under subsection (1), the judgment creditor may acquire a second judgment lien by filing a new judgment lien certificate. The effective date of the second judgment lien is the date and time on which the judgment lien certificate is filed. The second judgment lien is a new judgment lien and not a continuation of the original judgment lien. The second judgment lien permanently lapses and becomes invalid 5 years after its filing date, and additional liens based on the original judgment or any judgment based on the original judgment may not be acquired.

(4) A judgment lien continues only as to itemized property for an additional 90 days after lapse of the lien. Such judgment lien continues only if:

(a) The property was itemized and its location described with sufficient particularity in the instructions for levy to permit the sheriff to act;

(b) The instructions for the levy had been delivered to the sheriff before the date of lapse of the lien; and

(c) The property was located in the county in which the sheriff has jurisdiction at the time of delivery of the instruction for levy. Subsequent removal of the property does not defeat the lien. A court may order continuation of the lien beyond the 90-day period on a showing that extraordinary circumstances have prevented levy.

(5) The date of lapse of a judgment lien whose enforceability has been temporarily stayed or enjoined as a result of any legal or equitable proceeding is tolled until 30 days after the stay or injunction is terminated.

(6) If a second judgment lien is not filed, the Department of State shall maintain each judgment lien file and all information contained therein for a minimum of 1 year after the judgment lien lapses in accordance with this section. If a second judgment lien is filed, the department shall maintain both files and all information contained in such files for a minimum of 1 year after the second judgment lien lapses.

(7) This section does not extend the life of a judgment lien beyond the time that the underlying judgment, order, decree, or warrant otherwise expires or becomes invalid pursuant to law.

History.—s. 11, ch. 2000-258; s. 4, ch. 2001-154; s. 3, ch. 2005-241; s. 3, ch. 2010-90; s. 1, ch. 2010-138; s. 34, ch. 2012-30.

55.205 Effect of judgment lien.—

(1) A judgment creditor who has not acquired a judgment lien as provided in s. 55.202 or whose lien has lapsed may nevertheless proceed against the judgment debtor's property through any appropriate judicial process. Such judgment creditor proceeding by writ of execution acquires a lien as of the time of levy and only on the property levied upon. Except as provided in s. 55.208, such judgment creditor takes subject to the claims and interest of priority judgment creditors.

(2) A buyer in the ordinary course of business as defined in s. 671.201(9) takes free of a judgment lien acquired as provided in s. 55.202 or s. 55.204 even though the buyer knows of its existence. A valid security interest as defined in chapter 679 in after-acquired property of the judgment debtor which is perfected before the debtor acquires an interest in the property takes priority over the judgment lien on the after-acquired property.

(3) An individual buyer of goods for personal, family, or household use who buys the goods from a seller who held the goods for personal, family, or household use, and who pays value without knowledge that the goods are subject to a judgment lien, is entitled, to the extent of the value paid, to a lien on the goods superior to the judgment lien. If the buyer has made improvements to the goods, or other reasons justify doing so, a court may adjust the amount secured by the lien as the equities may require. This subsection shall not apply to:

(a) A transfer to a relative or an insider of the judgment debtor, as such are defined at s. 726.102;

(b) A fraudulent transfer, as defined by s. 726.105, s. 726.106, or 11 U.S.C. s. 548;

(c) A fraudulent asset conversion as defined by s. 222.30;

(d) Twenty-five percent of the transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$10,000;

(e) Fifty percent of the transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$20,000;

(f) Seventy-five percent of the transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$25,000; or

(g) Any transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$30,000.

(4) A buyer of stock in a corporation takes free of a judgment lien hereunder if the buyer pays value in good faith without notice as defined in s. 678.1051.

History.—s. 12, ch. 2000-258; s. 5, ch. 2001-154; s. 4, ch. 2005-241.

55.206 Amendment of judgment lien file; termination, partial release, assignment, continuation, tolling, correction.—

(1) An amendment to a judgment lien acquired as provided under s. 55.202 may be filed by or on behalf of the judgment creditor of record, which may provide for:

- (a) The termination, partial release, or assignment of the judgment creditor's interest in a judgment lien;
- (b) The continuation and termination of the continuation of a judgment lien, as provided in s. 55.204(4);
- (c) The tolling and termination of the tolling of a lapse of a judgment lien, as provided in s. 55.204(5); or
- (d) The correction or change of any other information provided in the judgment lien file.

(2) Within 30 days following receipt of a written demand by a judgment debtor after the obligation underlying a judgment lien has been fully or partially released, the judgment lienholder must deliver to the judgment debtor a written statement indicating that there is no longer a claim for a lien on the personal property of the judgment debtor or that the judgment lien has been partially released and setting forth the value of the lien remaining unpaid as of the date of the statement. A statement signed by an assignee must include or be accompanied by a separate written acknowledgment of assignment signed by or for the benefit of the judgment creditor of record. If the judgment lienholder fails to deliver such a statement within 30 days after proper written demand therefor, the judgment lienholder is liable to the judgment debtor for \$100, and for any actual or consequential damages, including reasonable attorney's fees, caused by such failure to the judgment debtor. The judgment debtor, the judgment creditor, or assignee may file such statement with the Department of State.

History.—s. 13, ch. 2000-258; s. 6, ch. 2001-154.

55.207 Correction of judgment lien file.—

(1) A person may file with the Department of State a correction statement with respect to a judgment lien file, as provided in s. 55.203, indexed under any person's name, if the person believes that the file is inaccurate or that the judgment lien certificate was wrongfully filed.

(2) A correction statement must:

- (a) State the judgment debtor named and the file number assigned to the judgment lien file to which the correction statement relates;
 - (b) Indicate that it is a correction statement;
 - (c) Provide the basis for the person's belief that the judgment lien certificate was wrongfully filed or the file is inaccurate; and
 - (d) Indicate the manner in which the person believes the file should be corrected to cure any inaccuracy.
- (3) The department shall ensure that a correction statement is indexed and available in the same manner as any filed lien certificate in the central database of judgment lien files.

(4) The filing of a correction statement does not affect the effectiveness of the judgment lien or other filing.

History.—s. 14, ch. 2000-258; s. 7, ch. 2001-154.

55.208 Effect of filed judgment lien on writs of execution previously delivered to a sheriff.—

(1) Any lien created by a writ of execution which has been delivered to the sheriff of any county before October 1, 2001, remains in effect for 2 years thereafter as to any property of the judgment debtor located in that county before October 1, 2001, and remaining within that county after that date. As to any property of the judgment debtor brought into the county on or after October 1, 2001, such writs create no lien, inchoate or otherwise.

(2) If a judgment creditor who has delivered a writ of execution to a sheriff in any county prior to October 1, 2001, properly files a judgment lien certificate with the Department of State by October 1, 2003, the resulting judgment lien is deemed filed on the date the writ was delivered to the sheriff as to all property of the judgment debtor subject to execution in this state under s. 56.061 which is located in that county on October 1, 2001, and that remains continuously in that county thereafter. Priority of such judgment liens is determined as of the effective date they are considered to have been filed. As to all other property of the judgment debtor, the effective date of the judgment lien is as provided in s. 55.202. The duration of all judgment liens is as provided in s. 55.204.

(3) If a judgment creditor who has delivered a writ of execution to a sheriff in any county before October 1, 2001, does not properly file a judgment lien certificate with the Department of State by October 1, 2003, such writ is considered to have been abandoned and to be of no effect after October 1, 2003.

History.—s. 15, ch. 2000-258; s. 8, ch. 2001-154.

55.209 Department of State; processing fees, responsibilities.—

(1) Except for liens, assessments, warrants, or judgments filed electronically as provided in s. 55.202(2)(b), the Department of State shall collect the following nonrefundable processing fees for all documents filed in accordance with ss. 55.201-55.209:

- (a) For any judgment lien certificate or other documents permitted to be filed, \$20.
- (b) For the certification of any filed document, \$10.

(c) For copies of judgment lien documents which are produced by the Department of State, \$1 per page or part thereof. However, no charge may be collected for copies provided in an online electronic format via the Internet.

(d) For indexing a judgment lien by multiple judgment debtor names, \$5 per additional name.

(e) For each additional facing page attached to a judgment lien certificate or document permitted to be filed, \$5.

(2) Unless otherwise provided by law, the Department of State may not conduct any search of the database established under s. 55.201 to determine the existence of any judgment lien file or to perform any service other than in connection with those services for which payment of services are required under this section. The information maintained in the database is for public notice purposes only and the department may make no certification or determination of the validity of any judgment lien acquired under ss. 55.202 and 55.204(3).

History.—s. 16, ch. 2000-258; s. 14, ch. 2001-60; s. 9, ch. 2001-154.

55.501 Florida Enforcement of Foreign Judgments Act; short title.—Sections 55.501-55.509 may be cited as the “Florida Enforcement of Foreign Judgments Act.”

History.—s. 1, ch. 84-5.

55.502 Construction of act.—

(1) As used in ss. 55.501-55.509, the term “foreign judgment” means a judgment, decree, or order of a court of any other state, territory or commonwealth of the United States, or of the United States if such judgment, decree, or order is entitled to full faith and credit in this state.

(2) This act shall not be construed to impair the right of a judgment creditor to bring an action to enforce his or her judgment instead of proceeding under this act.

(3) This act shall be interpreted and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

(4) Nothing contained in this act shall be construed to alter, modify, or extend the limitation period applicable for the enforcement of foreign judgments.

History.—ss. 2, 8, ch. 84-5; s. 16, ch. 94-348; s. 1358, ch. 95-147; s. 2, ch. 2013-164.

55.503 Recording and status of foreign judgments; fees.—

(1) A copy of any foreign judgment certified in accordance with the laws of the United States or of this state may be recorded in the office of the clerk of the circuit court of any county. The clerk shall file, record, and index the foreign judgment in the same manner as a judgment of a circuit or county court of this state. A judgment so recorded shall have the same effect and shall be subject to the same rules of civil procedure, legal and equitable defenses, and proceedings for reopening, vacating, or staying judgments, and it may be enforced, released, or satisfied, as a judgment of a circuit or county court of this state.

(2) Any person recording a foreign judgment shall pay to the clerk of the circuit court a service charge as is required for the recording of an original action demanding the relief or judgment granted in the foreign judgment.

History.—ss. 3, 7, ch. 84-5.

55.505 Notice of recording; prerequisite to enforcement.—

(1) At the time of the recording of a foreign judgment, the judgment creditor shall make and record with the clerk of the circuit court an affidavit setting forth the name, social security number, if known, and last known post office address of the judgment debtor and of the judgment creditor.

(2) Promptly upon the recording of the foreign judgment and the affidavit, the clerk shall mail notice of the recording of the foreign judgment, by registered mail with return receipt requested, to the judgment debtor at the address given in the affidavit and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and of the judgment creditor’s attorney, if any, in this state. In addition, the judgment creditor may mail a notice of the recording of the judgment to the judgment debtor and may record proof of mailing with the clerk. The failure of the clerk to mail notice of recording will not affect the enforcement proceedings if proof of mailing by the judgment creditor has been recorded.

(3) No execution or other process for enforcement of a foreign judgment recorded hereunder shall issue until 30 days after the mailing of notice by the clerk and payment of a service charge of up to \$42 to the clerk. When an action authorized in s. 55.509(1) is filed, it acts as an automatic stay of the effect of this section.

History.—s. 4, ch. 84-5; s. 12, ch. 93-250; s. 17, ch. 94-348; s. 70, ch. 2003-402; s. 26, ch. 2008-111.

55.507 Lien; when effective.—A foreign judgment does not operate as a lien until 30 days after the mailing of notice by the clerk. When an action authorized in s. 55.509(1) is filed, it acts as an automatic stay of the effect of this section.

History.—s. 5, ch. 84-5.

55.509 Stay of enforcement of foreign judgment.—

(1) If, within 30 days after the date the foreign judgment is recorded, the judgment debtor files an action contesting the jurisdiction of the court which entered the foreign judgment or the validity of the foreign judgment and records a lis pendens directed

toward the foreign judgment, the court shall stay enforcement of the foreign judgment and the judgment lien upon the filing of the action by the judgment debtor.

(2) If the judgment debtor shows the circuit or county court any ground upon which enforcement of a judgment of any circuit or county court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.

History.—s. 6, ch. 84-5.

55.601 Uniform Out-of-country Foreign Money-Judgment Recognition Act; short title.—Sections 55.601-55.607 may be cited as the “Uniform Out-of-country Foreign Money-Judgment Recognition Act.”

History.—s. 1, ch. 94-239.

55.602 Definitions.—As used in this act, the term:

(1) “Foreign state” means any governmental unit other than the United States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama Canal Zone, the Trust Territory of the Pacific Islands, or the Ryukyu Islands.

(2) “Out-of-country foreign judgment” means any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine, or other penalty.

History.—s. 2, ch. 94-239; s. 5, ch. 2005-241.

55.603 Applicability.—This act applies to any out-of-country foreign judgment that is final and conclusive and enforceable where rendered, even though an appeal therefrom is pending or is subject to appeal.

History.—s. 3, ch. 94-239; s. 6, ch. 2005-241.

55.604 Recognition and enforcement.—Except as provided in s. 55.605, an out-of-country foreign judgment meeting the requirements of s. 55.603 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. Procedures for recognition and enforceability of an out-of-country foreign judgment shall be as follows:

(1) The out-of-country foreign judgment shall be filed with the clerk of the court and recorded in the public records in the county or counties where enforcement is sought.

(a) At the time of the recording of an out-of-country foreign judgment, the judgment creditor shall make and record with the clerk of the circuit court an affidavit setting forth the name, social security number, if known, and last known post-office address of the judgment debtor and of the judgment creditor.

(b) Promptly upon the recording of the out-of-country foreign judgment and the affidavit, the clerk shall mail notice of the recording of the out-of-country foreign judgment, by registered mail with return receipt requested, to the judgment debtor at the address given in the affidavit and shall make a note of the mailing in the docket. The notice shall include the name and address of the judgment creditor and of the judgment creditor’s attorney, if any, in this state. In addition, the judgment creditor may mail a notice of the recording of the judgment to the judgment debtor and may record proof of mailing with the clerk. The failure of the clerk to mail notice of recording will not affect the enforcement proceedings if proof of mailing by the judgment creditor has been recorded.

(2) The judgment debtor shall have 30 days after service of the notice to file a notice of objection with the clerk of the court specifying the grounds for nonrecognition or nonenforceability under this act.

(3) Upon the application of any party, and after proper notice, the circuit court shall have jurisdiction to conduct a hearing, determine the issues, and enter an appropriate order granting or denying recognition in accordance with the terms of this act.

(4) If the judgment debtor fails to file a notice of objection within the required time, the clerk of the court shall record a certificate stating that no objection has been filed.

(5) Upon entry of an order recognizing the out-of-country foreign judgment, or upon recording of the clerk’s certificate set forth above, the out-of-country foreign judgment shall be enforced in the same manner as the judgment of a court of this state.

(6) Once an order recognizing the out-of-country foreign judgment has been entered by a court of this state, the order and a copy of the judgment may be recorded in any other county of this state without further notice or proceedings, and shall be enforceable in the same manner as the judgment of a court of this state.

(7) A lien on real estate in any county shall be created only when there has been recorded in the official records of the county (a) a certified copy of the judgment, and (b) a copy of the clerk’s certificate or the order recognizing the out-of-country foreign judgment. The priority of such lien will be established as of the time the latter of the two recordings has occurred.

(8) A judgment lien on personal property is acquired only when a judgment lien certificate is filed in accordance with s. 55.203 with the Department of State.

History.—s. 4, ch. 94-239; s. 77, ch. 99-251; s. 17, ch. 2000-258; s. 10, ch. 2001-154; s. 7, ch. 2005-241.

55.605 Grounds for nonrecognition.—

(1) An out-of-country foreign judgment is not conclusive if:

(a) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

(b) The foreign court did not have personal jurisdiction over the defendant.

- (c) The foreign court did not have jurisdiction over the subject matter.
 - (2) An out-of-country foreign judgment need not be recognized if:
 - (a) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him or her to defend.
 - (b) The judgment was obtained by fraud.
 - (c) The cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state.
 - (d) The judgment conflicts with another final and conclusive order.
 - (e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court.
 - (f) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.
 - (g) The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state.
 - (h) The cause of action resulted in a defamation judgment obtained in a jurisdiction outside the United States, unless the court sitting in this state before which the matter is brought first determines that the defamation law applied in the foreign court's adjudication provided at least as much protection for freedom of speech and press in that case as would be provided by the United States Constitution and the State Constitution.
- History.—s. 5, ch. 94-239; s. 1359, ch. 95-147; s. 78, ch. 99-251; s. 11, ch. 2001-154; s. 8, ch. 2005-241; s. 1, ch. 2009-232.

55.6055 Foreign defamation judgment.—

(1) For the purposes of rendering declaratory relief with respect to a person's liability for a foreign defamation judgment and determining whether the foreign defamation judgment should be deemed nonrecognizable under s. 55.605, the courts of this state have personal jurisdiction over any person who obtains a judgment in a defamation proceeding outside the United States against any person who:

- (a) Is a resident of this state;
- (b) Is a person or entity amenable to the jurisdiction of this state;
- (c) Has assets in this state; or
- (d) May have to take action in this state to comply with the judgment.

(2) This section applies to judgments rendered in defamation proceedings outside the United States before, on, or after July 1, 2009.

History.—s. 2, ch. 2009-232.

55.606 Personal jurisdiction.—The out-of-country foreign judgment shall not be refused recognition for lack of personal jurisdiction if:

- (1) The defendant was served personally in the foreign state;
- (2) The defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him or her;
- (3) The defendant, prior to the commencement of the proceedings, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;
- (4) The defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate, had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state;
- (5) The defendant had a business office in the foreign state and the proceedings in the foreign court involved a cause of action or a claim for relief arising out of business done by the defendant through that office in the foreign state; or
- (6) The defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a cause of action or claim for relief arising out of such operation.

History.—s. 6, ch. 94-239; s. 1360, ch. 95-147; s. 9, ch. 2005-241.

55.607 Stay in case of appeal.—If the defendant satisfies the court that an appeal is pending, or that he or she intends to appeal, and that he or she has obtained a stay of judgment from the foreign court, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

History.—s. 7, ch. 94-239; s. 1361, ch. 95-147.

Select Year: 2014

The 2014 Florida Statutes

Title VI CIVIL PRACTICE AND PROCEDURE

Chapter 77 GARNISHMENT

[View Entire Chapter](#)

CHAPTER 77 GARNISHMENT

- 77.01 Right to writ of garnishment.
- 77.02 Garnishment in tort actions.
- 77.03 Issuance of writ after judgment.
- 77.0305 Continuing writ of garnishment against salary or wages.
- 77.031 Issuance of writ before judgment.
- 77.04 Writ; form.
- 77.041 Notice to individual defendant for claim of exemption from garnishment; procedure for hearing.
- 77.055 Service of garnishee's answer and notice of right to dissolve writ.
- 77.06 Writ; effect.
- 77.061 Reply.
- 77.07 Dissolution of writ.
- 77.08 Writ; jury trial.
- 77.081 Default; judgment.
- 77.082 No reply filed.
- 77.083 Judgment.
- 77.13 Execution on garnishee's refusal to surrender property.
- 77.14 Disposition of property surrendered by garnishee.
- 77.15 Proceedings against third persons named in answer.
- 77.16 Claims by third persons to garnisheed property.
- 77.17 Compensation to garnishee.
- 77.19 Amount retained by garnishee.
- 77.22 Before judgment; effect of judgment for defendant.
- 77.24 Before judgment; discharge.
- 77.27 No appeal until fees are paid.
- 77.28 Garnishment; attorney fees, costs, expenses; deposit required.

77.01 Right to writ of garnishment.—Every person or entity who has sued to recover a debt or has recovered judgment in any court against any person or entity has a right to a writ of garnishment, in the manner hereinafter provided, to subject any debt due to defendant by a third person or any debt not evidenced by a negotiable instrument that will become due absolutely through the passage of time only to the defendant by a third person, and any tangible or intangible personal property of defendant in the possession or control of a third person. The officers, agents, and employees of any companies or corporations are third persons in regard to the companies or corporations, and as such are subject to garnishment after judgment against the companies or corporations.

History.—s. 1, ch. 43, 1845; s. 1, ch. 3738, 1887; RS 1666; s. 1, ch. 4136, 1893; GS 2130; s. 1, ch. 6910, 1915; RGS 3431; CGL 5284; s. 27, ch. 67-254; s. 21, ch. 2000-258; s. 14, ch. 2001-154.

77.02 Garnishment in tort actions.—Before judgment against a defendant no writ of garnishment shall issue in any action sounding in tort.

History.—s. 1, ch. 7352, 1917; RGS 3432; CGL 5285; s. 27, ch. 67-254.

77.03 Issuance of writ after judgment.—After judgment has been obtained against defendant but before the writ of garnishment is issued, the plaintiff, the plaintiff's agent or attorney, shall file a motion (which shall not be verified or negative defendant's exemptions) stating the amount of the judgment. The motion may be filed and the writ issued either before or after the return of execution.

History.—ss. 1, 14, ch. 43, 1845; RS 1667; s. 1, ch. 4393, 1895; GS 2131; RGS 3433; CGL 5286; s. 27, ch. 67-254; s. 383, ch. 95-147; s. 13, ch. 2005-241.

77.0305 Continuing writ of garnishment against salary or wages.—Notwithstanding any other provision of this chapter, if salary

or wages are to be garnished to satisfy a judgment, the court shall issue a continuing writ of garnishment to the judgment debtor's employer which provides for the periodic payment of a portion of the salary or wages of the judgment debtor as the salary or wages become due until the judgment is satisfied or until otherwise provided by court order. A debtor's status as an employee of the state or its agencies or political subdivisions does not preclude a judgment creditor's right to garnish the debtor's wages. For the purposes of this section, the state includes the judicial branch and the legislative branch as defined in s. 216.011. The state, for itself and for its agencies and subdivisions, waives sovereign immunity for the express and limited purpose necessary to carry out this section. The court shall allow the judgment debtor's employer to collect up to \$5 against the salary or wages of the judgment debtor to reimburse the employer for administrative costs for the first deduction from the judgment debtor's salary or wages and up to \$2 for each deduction thereafter. The funds collected by the state under this section must be deposited in the Department of Financial Services Administrative Trust Fund for purposes of carrying out this section.

History.—s. 1, ch. 88-295; s. 2, ch. 93-69; s. 1, ch. 93-256; s. 107, ch. 2003-261.

77.031 Issuance of writ before judgment.—Before judgment has been obtained by the plaintiff against the defendant:

- (1) A writ of garnishment shall be issued by the court or by the clerk on order of the court.
- (2) To obtain issuance of the writ, the plaintiff, or the plaintiff's agent or attorney, shall file in the court where the action is pending a verified motion or affidavit alleging by specific facts the nature of the cause of action; the amount of the debt and that the debt for which the plaintiff sues is just, due, and unpaid; that the garnishment is not sued out to injure either the defendant or the garnishee; and that the plaintiff believes that the defendant will not have in his or her possession, after execution is issued, tangible or intangible property in this state and in the county in which the action is pending on which a levy can be made sufficient to satisfy the plaintiff's claim. The writ of garnishment shall set forth a notice to the defendant of the right to an immediate hearing for dissolution of such writ pursuant to s. 77.07. Upon issuance of the writ of garnishment, the clerk of the court shall provide by mail a copy of the writ to the defendant.
- (3) Except when the plaintiff has had an attachment writ issued, no writ of garnishment before judgment shall issue until the plaintiff, or the plaintiff's agent or attorney, gives a bond with surety to be approved by the clerk payable to the defendant in at least double the amount of the debt demanded, conditioned to pay all costs, damages, and attorney's fees that the defendant sustains in consequence of the plaintiff's improperly suing out the writ of garnishment. A garnishment bond is not void or voidable because of an informality in it, nor shall the obligors be discharged because of the informality, even though the garnishment is dissolved because of the informality.

- (4) The motion or pleading need not negative any exemptions of the defendant.

History.—s. 11, ch. 43, 1845; RS 1680; s. 1, ch. 4393, 1895; GS 2144; s. 2, ch. 6910, 1915; RGS 3446; CGL 5299; s. 2, ch. 29737, 1955; s. 27, ch. 67-254; s. 1, ch. 83-97; s. 8, ch. 85-80; s. 384, ch. 95-147.

Note.—Former s. 77.18.

77.04 Writ; form.—The writ shall require the garnishee to serve an answer on the plaintiff within 20 days after service of the writ stating whether the garnishee is indebted to the defendant at the time of the answer, or was indebted at the time of service of the writ, plus up to 1 business day for the garnishee to act expeditiously on the writ, or at any time between such times; in what sum and what tangible or intangible personal property of defendant the garnishee has in his or her possession or control at the time of his or her answer, or had at the time of the service of the writ, or at any time between such times; and whether the garnishee knows of any other person indebted to defendant, or who may have any of the property of defendant in his or her possession or control. The writ shall state the amount named in plaintiff's motion. If the garnishee is a business entity, an authorized employee or agent of the entity may execute, file, and serve the answer on behalf of the entity.

History.—s. 1, ch. 43, 1845; RS 1668; s. 1, ch. 4393, 1895; GS 2132; RGS 3434; CGL 5287; s. 11, ch. 28301, 1953; s. 27, ch. 67-254; s. 385, ch. 95-147; s. 14, ch. 2005-241; s. 1, ch. 2013-233.

77.041 Notice to individual defendant for claim of exemption from garnishment; procedure for hearing.—

- (1) Upon application for a writ of garnishment by a plaintiff, if the defendant is an individual, the clerk of the court shall attach to the writ the following "Notice to Defendant":

NOTICE TO DEFENDANT OF RIGHT AGAINST
GARNISHMENT OF WAGES, MONEY,
AND OTHER PROPERTY

The Writ of Garnishment delivered to you with this Notice means that wages, money, and other property belonging to you have been garnished to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES, MONEY, OR PROPERTY. READ THIS NOTICE CAREFULLY.

State and federal laws provide that certain wages, money, and property, even if deposited in a bank, savings and loan, or credit union, may not be taken to pay certain types of court judgments. Such wages, money, and property are exempt from garnishment. The major exemptions are listed below on the form for Claim of Exemption and Request for Hearing. This list does not include all possible exemptions. You should consult a lawyer for specific advice.

IF AN EXEMPTION FROM GARNISHMENT APPLIES TO YOU AND YOU WANT TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY FROM BEING GARNISHED, OR TO RECOVER ANYTHING ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS SET FORTH BELOW AND HAVE THE FORM NOTARIZED. IF YOU HAVE A VALID EXEMPTION, YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM TO THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY AND THE GARNISHEE OR THE GARNISHEE'S ATTORNEY AT THE ADDRESSES LISTED ON THE WRIT OF GARNISHMENT. NOTE THAT THE FORM REQUIRES YOU TO COMPLETE A CERTIFICATION THAT YOU MAILED OR HAND DELIVERED COPIES TO THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY AND THE GARNISHEE OR THE GARNISHEE'S ATTORNEY.

If you request a hearing, it will be held as soon as possible after your request is received by the court. The plaintiff or the plaintiff's attorney must file any objection within 8 business days if you hand delivered to the plaintiff or the plaintiff's attorney a copy of the form for Claim of Exemption and Request for Hearing or, alternatively, 14 business days if you mailed a copy of the form for claim and request to the plaintiff or the plaintiff's attorney. If the plaintiff or the plaintiff's attorney files an objection to your Claim of Exemption and Request for Hearing, the clerk will notify you and the other parties of the time and date of the hearing. You may attend the hearing with or without an attorney. If the plaintiff or the plaintiff's attorney fails to file an objection, no hearing is required, the writ of garnishment will be dissolved and your wages, money, or property will be released.

IF YOU HAVE A VALID EXEMPTION, YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR PROPERTY FROM BEING APPLIED TO THE COURT JUDGMENT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED LEGAL ASSISTANCE YOU SHOULD SEE A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, LEGAL SERVICES MAY BE AVAILABLE. CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE CLERK'S OFFICE ABOUT ANY LEGAL SERVICES PROGRAM IN YOUR AREA.

CLAIM OF EXEMPTION AND REQUEST FOR HEARING

I claim exemptions from garnishment under the following categories as checked:

1. Head of family wages. (Check either a. or b. below, if applicable.)
 - a. I provide more than one-half of the support for a child or other dependent and have net earnings of \$750 or less per week.
 - b. I provide more than one-half of the support for a child or other dependent, have net earnings of more than \$750 per week, but have not agreed in writing to have my wages garnished.
2. Social Security benefits.
3. Supplemental Security Income benefits.
4. Public assistance (welfare).
5. Workers' Compensation.
6. Reemployment assistance or unemployment compensation.
7. Veterans' benefits.
8. Retirement or profit-sharing benefits or pension money.
9. Life insurance benefits or cash surrender value of a life insurance policy or proceeds of annuity contract.
10. Disability income benefits.
11. Prepaid College Trust Fund or Medical Savings Account.
12. Other exemptions as provided by law.
(explain)

I request a hearing to decide the validity of my claim. Notice of the hearing should be given to me at:

Address:

Telephone number:

I CERTIFY UNDER OATH AND PENALTY OF PERJURY that a copy of this CLAIM OF EXEMPTION AND REQUEST FOR HEARING has been furnished by (circle one) United States mail or hand delivery on (insert date), to: (insert names and addresses of Plaintiff or Plaintiff's attorney and of Garnishee or Garnishee's attorney to whom this document was furnished).

I FURTHER CERTIFY UNDER OATH AND PENALTY OF PERJURY that the statements made in this request are true to the best of my knowledge and belief.

Defendant's signature

Date

STATE OF FLORIDA

COUNTY OF

Sworn and subscribed to before me this day of (month and year) , by (name of person making statement)

Notary Public/Deputy Clerk

Personally Known OR Produced Identification

Type of Identification Produced

(2) The plaintiff must mail, by first class, a copy of the writ of garnishment, a copy of the motion for writ of garnishment, and, if the defendant is an individual, the "Notice to Defendant" to the defendant's last known address within 5 business days after the writ is issued or 3 business days after the writ is served on the garnishee, whichever is later. However, if such documents are returned as undeliverable by the post office, or if the last known address is not discoverable after diligent search, the plaintiff must mail, by first class, the documents to the defendant at the defendant's place of employment. The plaintiff shall file in the proceeding a certificate of such service.

(3) Upon the filing by a defendant of a sworn claim of exemption and request for hearing, a hearing will be held as soon as is practicable to determine the validity of the claimed exemptions. If the plaintiff or the plaintiff's attorney does not file a sworn written statement that answers the defendant's claim of exemption within 8 business days after hand delivering the claim and request or, alternatively, 14 business days if the claim and request were served by mail, no hearing is required and the clerk must automatically dissolve the writ and notify the parties of the dissolution by mail.

History.—s. 22, ch. 2000-258; s. 15, ch. 2001-154; s. 15, ch. 2005-241; s. 2, ch. 2010-97; s. 40, ch. 2012-30; s. 2, ch. 2013-233.

77.055 Service of garnishee's answer and notice of right to dissolve writ.—Within 5 days after service of the garnishee's answer on the plaintiff or after the time period for the garnishee's answer has expired, the plaintiff shall serve, by mail, the following documents: a copy of the garnishee's answer, and a notice advising the recipient that he or she must move to dissolve the writ of garnishment within 20 days after the date indicated on the certificate of service in the notice if any allegation in the plaintiff's motion for writ of garnishment is untrue. The plaintiff shall serve these documents on the defendant at the defendant's last known address and any other address disclosed by the garnishee's answer and on any other person disclosed in the garnishee's answer to have any ownership interest in the deposit, account, or property controlled by the garnishee. The plaintiff shall file in the proceeding a certificate of such service.

History.—s. 1, ch. 85-272; s. 2, ch. 88-295; s. 386, ch. 95-147; s. 23, ch. 2000-258.

77.06 Writ; effect.—

(1) Service of the writ shall make garnishee liable for all debts due by him or her to defendant and for any tangible or intangible personal property of defendant in the garnishee's possession or control at the time of the service of the writ or at any time between the service and the time of the garnishee's answer. Service of the writ creates a lien in or upon any such debts or property at the time of service or at the time such debts or property come into the garnishee's possession or control.

(2) The garnishee shall report in its answer and retain, subject to the provisions of s. 77.19 and subject to disposition as provided in this chapter, any deposit, account, or tangible or intangible personal property in the possession or control of such garnishee; and the answer shall state the name or names and addresses, if known to the garnishee, of the defendant and any other persons having or appearing to have an ownership interest in the involved property.

(3) In any case where a garnishee in good faith is in doubt as to whether any indebtedness or property is required by law to be included in the garnishee's answer or retained by it, the garnishee may include and retain the same, subject to the provisions of s. 77.19 and subject to disposition as provided in this chapter, and in such case the garnishee shall not be liable for so doing to the defendant or to any other person claiming the same or any interest therein or claiming to have sustained damage on account thereof.

(4) Service of a writ on a garnishee shall render him or her liable as provided in this chapter in any fiduciary or representative capacity held by him or her if the fiduciary or representative capacity is specified in the writ.

History.—s. 1, ch. 43, 1845; RS 1670; GS 2134; RGS 3436; CGL 5289; s. 27, ch. 67-254; s. 1, ch. 71-69; s. 1, ch. 74-98; s. 2, ch. 85-272; s. 387, ch. 95-147; s. 24, ch. 2000-258.

77.061 Reply.—When any garnishee answers and plaintiff is not satisfied with the answer, he or she shall serve a reply within 20 days thereafter denying the allegations of the answer as he or she desires. On failure of plaintiff to file a reply, the answer shall be taken as true and on proper disposition of the assets, if any are disclosed thereby, the garnishee is entitled to an order discharging him or her from further liability under the writ.

History.—s. 27, ch. 67-254; s. 388, ch. 95-147.

77.07 Dissolution of writ.—

(1) The defendant, by motion, may obtain the dissolution of a writ of garnishment, unless the petitioner proves the grounds upon

which the writ was issued and unless, in the case of a prejudgment writ, there is a reasonable probability that the final judgment in the underlying action will be rendered in his or her favor. The court shall set down such motion for an immediate hearing. If the writ is dissolved, the action then shall proceed as if no writ had been issued.

(2) The defendant and any other person having an ownership interest in the property, as disclosed by the garnishee's answer, shall file and serve a motion to dissolve the garnishment within 20 days after the date indicated in the certificate of service on the defendant and such other person of the plaintiff's notice required by s. 77.055, stating that any allegation in plaintiff's motion for writ is untrue. On such motion this issue shall be tried, and if the allegation in plaintiff's motion which is denied is not proved to be true, the garnishment shall be dissolved. Failure of the defendant or other interested person to timely file and serve the motion to dissolve within such time limitation shall result in the striking of the motion as an unauthorized nullity by the court, and the proceedings shall be in a default posture as to the party involved.

(3) If the motion denies the debt demanded before judgment, the judge may require pleadings on motion of either party on the debt demanded to be filed in such time as he or she fixes.

(4) The issue, if any, raised by the pleadings shall be tried at the same time as the issue, if any, made by defendant's motion to plaintiff's motion.

(5) If the plaintiff fails to file a dismissal or motion for final judgment within 6 months after filing the writ of garnishment, the writ shall automatically be dissolved and the garnishee shall be discharged from further liability under the writ. The plaintiff has the right to extend the writ for an additional 6 months by serving the garnishee and the defendant a notice of extension and filing in the underlying proceeding a certification of such service.

History.—s. 1, ch. 7353, 1917; RGS 3454; CGL 5307; s. 27, ch. 67-254; s. 2, ch. 83-97; s. 3, ch. 85-272; s. 389, ch. 95-147; s. 16, ch. 2005-241.

77.08 Writ; jury trial.—On demand of either party a jury summoned from the body of the county shall be impaneled to try the issues.

History.—s. 1, ch. 7353, 1917; RGS 3455; CGL 5308; s. 27, ch. 67-254.

77.081 Default; judgment.—

(1) If the garnishee fails to answer as required, a default shall be entered against him or her.

(2) On the entry of judgment for plaintiff, a final judgment shall be entered against the garnishee for the amount of plaintiff's claim with interest and costs. No final judgment against a garnishee shall be entered before the entry of, or in excess of, the final judgment against the original defendant with interest and costs. If the claim of the plaintiff is dismissed or judgment is entered against the plaintiff the default against garnishee shall be vacated and judgment for the garnishee's costs entered.

History.—s. 11, ch. 43, 1845; RS 1681, 1682; GS 2146, 2147; RGS 3448, 3449; CGL 5301, 5302; s. 27, ch. 67-254; s. 390, ch. 95-147.

Note.—Former ss. 77.20, 77.21.

77.082 No reply filed.—If no reply to garnishee's answer is served, garnishee may surrender any goods, chattels, or effects of defendant in garnishee's hands or possession to the sheriff and may pay any money or debt into registry of court. In such event or if garnishee prevails in the trial of any reply and after proper disposition of any property disclosed by garnishee's answer, the court shall discharge him or her from further liability under the writ.

History.—s. 27, ch. 67-254; s. 391, ch. 95-147.

77.083 Judgment.—Judgment against the garnishee on the garnishee's answer or after trial of a reply to the garnishee's answer shall be entered for the amount of his or her liability as disclosed by the answer or trial. Instead of scire facias, the court may subpoena the garnishee to inquire about his or her liability to or possession of property of the defendant. No judgment in excess of the amount remaining unpaid on the final judgment against the defendant or in excess of the amount of the liability of the garnishee to the defendant, whichever is less, shall be entered against the garnishee.

History.—s. 27, ch. 67-254; s. 3, ch. 83-97; s. 10, ch. 87-224; s. 392, ch. 95-147.

77.13 Execution on garnishee's refusal to surrender property.—If garnishee will not surrender the personal property belonging to defendant, provided he or she has the power to do so, and which garnishee has admitted is in his or her possession, the court may order execution issued against garnishee for the unpaid amount of plaintiff's judgment against defendant. The officer shall sell garnishee's property as under other executions. Garnishee may release his or her property from the levy and sale by surrendering the property of defendant to the officer levying the execution at the time appointed for the sale of garnishee's property so levied on, or at any time before the day of the sale and by paying the costs of the proceedings to sell up to the time of the surrender.

History.—s. 5, ch. 43, 1845; RS 1675; GS 2139; RGS 3441; CGL 5294; s. 27, ch. 67-254; s. 393, ch. 95-147.

77.14 Disposition of property surrendered by garnishee.—When any garnishee has any of the personal property of defendant in his or her possession or control and surrenders it, the sheriff shall receive the property and sell it under the execution against defendant.

History.—s. 6, ch. 43, 1845; RS 1676; GS 2140; RGS 3442; CGL 5295; s. 27, ch. 67-254; s. 394, ch. 95-147.

77.15 Proceedings against third persons named in answer.—If the answer of garnishee shows that there is any of defendant's

personal property in the possession or control of any person who has not been garnisheed, on motion of plaintiff a writ of garnishment shall issue against the person having personal property of the defendant and the person shall answer and be liable as other garnishees.

History.—s. 3, ch. 43, 1845; RS 1677; GS 2141; RGS 3443; CGL 5296; s. 2, ch. 29737, 1955; s. 27, ch. 67-254.

77.16 Claims by third persons to garnisheed property.—

(1) If any person other than defendant claims that the debt due by a garnishee is due to that person and not to defendant, or that the property in the hands or possession of any garnishee is that person's property and shall make an affidavit to the effect, the court shall impanel a jury to determine the right of property between the claimant and plaintiff unless a jury is waived.

(2) If the verdict is against the claimant, plaintiff shall recover costs. If the verdict is in favor of the claimant, the claimant shall recover costs against plaintiff.

(3) If the claim is interposed after a levy on property, the officer making the levy shall return the execution with the officer's levy thereon and the affidavit of the claimant to the court from which execution issued, and the proceedings shall be as in other cases of claims made to property taken on execution.

History.—s. 8, ch. 43, 1845; RS 1679; GS 2143; RGS 3445; CGL 5298; s. 27, ch. 67-254; s. 395, ch. 95-147.

77.17 Compensation to garnishee.—The garnishee shall be allowed the pay of a witness for the garnishee's attendance out of the debt owed to defendant or the property in the garnishee's possession. If there is no debt or property in the garnishee's possession, the allowance shall be against plaintiff.

History.—s. 7, ch. 43, 1845; RS 1678; GS 2142; RGS 3444; CGL 5297; s. 27, ch. 67-254; s. 396, ch. 95-147.

77.19 Amount retained by garnishee.—No garnishee who is indebted to or has in his or her possession the money of a person whose money or credits may be garnisheed shall retain out of the money more than double the amount which the writ of garnishment specifies as the amount plaintiff expects to recover or more than double the amount of the judgment plaintiff has recovered.

History.—s. 2, ch. 4393, 1895; GS 2145; RGS 3447; CGL 5300; s. 27, ch. 67-254; s. 397, ch. 95-147.

77.22 Before judgment; effect of judgment for defendant.—

(1) If the judgment is for defendant in the main action, plaintiff shall pay all costs which have accrued in consequence of suing out a writ of garnishment before judgment and the money or property brought into the registry of the court or custody of the officer thereby inures to the benefit of and shall be controlled by defendant as completely as though it had been rendered in defendant's favor.

(2) If plaintiff dismisses his or her action or has a judgment against him or her on the trial, the judgment against garnishee shall become a nullity and garnishee shall have execution for garnishee's costs against plaintiff.

History.—s. 11, ch. 43, 1845; s. 2, ch. 1100, 1861; RS 1683, 1684; GS 2148, 2149; RGS 3450, 3451; CGL 5303, 5304; s. 27, ch. 67-254; s. 398, ch. 95-147.

Note.—Former ss. 77.22, 77.23.

77.24 Before judgment; discharge.—At any time before the entry of judgment, a defendant whose property has been garnisheed may secure its release by giving a bond with surety to be approved by the clerk in at least double the amount claimed in the complaint with interest and costs, or if the value of the property garnisheed is less than this amount, then in double the value, conditioned to pay any judgment recovered against the defendant in the action with interest and costs, or so much thereof as shall equal the value. On the approval of the bond the court shall discharge the garnishment and release the property. The order shall become effective on its filing with the bond. If garnishee admits a debt to or possession of property of defendant in excess of a sum sufficient to satisfy plaintiff's claim, on motion of defendant and notice to plaintiff, the court shall release garnishee from responsibility to plaintiff for any debt to or property of defendant except in a sum deemed by the court sufficient to satisfy plaintiff's claim with interest and costs.

History.—RS 1685; GS 2150; s. 1, ch. 5906, 1909; s. 2, ch. 6910, 1915; RGS 3452; CGL 5305; s. 27, ch. 67-254; s. 399, ch. 95-147.

77.27 No appeal until fees are paid.—If the writ is dismissed or plaintiff fails to sustain his or her claim, an appeal from the judgment is not permitted until the attorney fee provided in s. 77.28 has been paid.

History.—s. 2, ch. 4030, 1891; GS 1357; RGS 2553; CGL 4171; s. 27, ch. 67-254; s. 400, ch. 95-147; s. 2, ch. 2014-211.

77.28 Garnishment; attorney fees, costs, expenses; deposit required.—Upon issuance of any writ of garnishment, the party applying for it shall pay \$100 to the garnishee on the garnishee's demand at any time after the service of the writ for the payment or part payment of his or her attorney fee which the garnishee expends or agrees to expend in obtaining representation in response to the writ. On rendering final judgment, the court shall determine the garnishee's costs and expenses, including a reasonable attorney fee, and in the event of a judgment in favor of the plaintiff, the amount is subject to offset by the garnishee against the defendant whose property or debt owing is being garnished. In addition, the court shall tax the garnishee's costs and expenses as costs. The plaintiff may recover in this manner the sum advanced by him or her, and, if the amount allowed by the court is greater than the amount paid together with any offset, judgment for the garnishee shall be entered against the party against whom the costs are taxed for the deficiency.

History.—s. 1, ch. 21772, 1943; s. 27, ch. 67-254; s. 2, ch. 81-301; s. 4, ch. 85-272; s. 1, ch. 88-234; s. 401, ch. 95-147; s. 76, ch. 2003-402; s. 3, ch. 2014-211.

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Committee Notes

1992 Amendment. Subdivision (b) is amended to remove the 1 year limitation for a motion under this rule based on fraudulent financial affidavits in marital cases.

2003 Amendment. Subdivision (b) is amended to clarify that motions must be filed.

RULE 1.550. EXECUTIONS AND FINAL PROCESS

(a) **Issuance.** Executions on judgments shall issue during the life of the judgment on the oral request of the party entitled to it or that party's attorney without praecipe. No execution or other final process shall issue until the judgment on which it is based has been recorded nor within the time for serving a motion for new trial or rehearing, and if a motion for new trial or rehearing is timely served, until it is determined; provided execution or other final process may be issued on special order of the court at any time after judgment.

(b) **Stay.** The court before which an execution or other process based on a final judgment is returnable may stay such execution or other process and suspend proceedings thereon for good cause on motion and notice to all adverse parties.

RULE 1.560. DISCOVERY IN AID OF EXECUTION

(a) **In General.** In aid of a judgment, decree, or execution the judgment creditor or the successor in interest, when that interest appears of record, may obtain discovery from any person, including the judgment debtor, in the manner provided in these rules.

(b) **Fact Information Sheet.** In addition to any other discovery available to a judgment creditor under this rule, the court, at the request of the judgment creditor, shall order the judgment debtor or debtors to complete form 1.977, including all required attachments, within 45 days of the order or such other reasonable time as determined by the court. Failure to obey the order may be considered contempt of court.

(c) **Final Judgment Enforcement Paragraph.** In any final judgment, the judge shall include the following enforcement paragraph if requested by the prevailing party or attorney:

"It is further ordered and adjudged that the judgment debtor(s) shall complete under oath Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet), including all required attachments, and serve it on the judgment creditor's attorney, or the judgment creditor if the judgment creditor is not represented by an

March 16, 2015

Florida Rules of Civil Procedure

118

attorney, within 45 days from the date of this final judgment, unless the final judgment is satisfied or post-judgment discovery is stayed.

Jurisdiction of this case is retained to enter further orders that are proper to compel the judgment debtor(s) to complete form 1.977, including all required attachments, and serve it on the judgment creditor's attorney, or the judgment creditor if the judgment creditor is not represented by an attorney."

(d) Information Regarding Assets of Judgment Debtor's Spouse. In any final judgment, if requested by the judgment creditor, the court shall include the additional Spouse Related Portion of the fact information sheet upon a showing that a proper predicate exists for discovery of separate income and assets of the judgment debtor's spouse.

Committee Notes

1972 Amendment. The rule is expanded to permit discovery in any manner permitted by the rules and conforms to the 1970 change in Federal Rule of Civil Procedure 69(a).

2000 Amendment. Subdivisions (b)–(e) were added and patterned after Florida Small Claims Rule 7.221(a) and Form 7.343. Although the judgment creditor is entitled to broad discovery into the judgment debtor's finances, Fla. R. Civ. P. 1.280(b); *Jim Appley's Tru-Arc, Inc. v. Liquid Extraction Systems*, 526 So. 2d 177, 179 (Fla. 2d DCA 1988), inquiry into the individual assets of the judgment debtor's spouse may be limited until a proper predicate has been shown. *Tru-Arc, Inc.* 526 So. 2d at 179; *Rose Printing Co. v. D'Amato*, 338 So. 2d 212 (Fla. 3d DCA 1976).

Failure to complete form 1.977 as ordered may be considered contempt of court.

2013 Amendment. Subdivision (e) was deleted because the filing of a notice of compliance is unnecessary for the judgment creditor to seek relief from the court for noncompliance with this rule, and because the Fact Information Sheet itself should not be filed with the clerk of the court.

RULE 1.570. ENFORCEMENT OF FINAL JUDGMENTS

(a) Money Judgments. Final process to enforce a judgment solely for the payment of money shall be by execution, writ of garnishment, or other appropriate process or proceedings.

(b) Property Recovery. Final process to enforce a judgment for the recovery of property shall be by a writ of possession for real property and by a writ of replevin, distress writ, writ of garnishment, or other appropriate process or proceedings for other property.

(c) Performance of an Act. If judgment is for the performance of a specific act or contract:

(1) the judgment shall specify the time within which the act shall be performed. If the act is not performed within the time specified, the party seeking enforcement of the judgment shall make an affidavit that the judgment has not been complied with within the prescribed time and the clerk shall issue a writ of attachment against the delinquent party. The delinquent party shall not be released from the writ of attachment until that party has complied with the judgment and paid all costs accruing because of the failure to perform the act. If the delinquent party cannot be found, the party seeking enforcement of the judgment shall file an affidavit to this effect and the court shall issue a writ of sequestration against the delinquent party's property. The writ of sequestration shall not be dissolved until the delinquent party complies with the judgment;

(2) the court may hold the disobedient party in contempt; or

(3) the court may appoint some person, not a party to the action, to perform the act insofar as practicable. The performance of the act by the person appointed shall have the same effect as if performed by the party against whom the judgment was entered.

(d) **Vesting Title.** If the judgment is for a conveyance, transfer, release, or acquittance of real or personal property, the judgment shall have the effect of a duly executed conveyance, transfer, release, or acquittance that is recorded in the county where the judgment is recorded. A judgment under this subdivision shall be effective notwithstanding any disability of a party.

Committee Notes

1980 Amendment. This rule has been subdivided and amended to make it more easily understood. No change in the substance of the rule is intended. Subdivision (d) is partly derived from Federal Rule of Civil Procedure 70.

RULE 1.580. WRIT OF POSSESSION

(a) **Issuance.** When a judgment or order is for the delivery of possession of real property, the judgment or order shall direct the clerk to issue a writ of possession. The clerk shall issue the writ forthwith and deliver it to the sheriff for execution.

(b) **Third-Party Claims.** If a person other than the party against whom the writ of possession is issued is in possession of the property, that person may retain possession of the property by filing with the sheriff an affidavit that the person is entitled to possession of the property, specifying the nature of the claim.

Thereupon the sheriff shall desist from enforcing the writ and shall serve a copy of the affidavit on the party causing issuance of the writ of possession. The party causing issuance of the writ may apply to the court for an order directing the sheriff to complete execution of the writ. The court shall determine the right of possession in the property and shall order the sheriff to continue to execute the writ or shall stay execution of the writ, if appropriate.

Committee Notes

1980 Amendment. There was inadvertently continued the difference between writs of assistance and writs of possession when law and chancery procedure was consolidated. The amendment eliminates the distinction. Writs of assistance are combined with writs of possession. The amendment provides for issuance and the determination of third-party claims. The only change is to shift the burden of the affidavit from the person causing the writ to be executed to the third person who contends that its execution is inappropriate.

RULE 1.590. PROCESS IN BEHALF OF AND AGAINST PERSONS NOT PARTIES

Every person who is not a party to the action who has obtained an order, or in whose favor an order has been made, may enforce obedience to such order by the same process as if that person were a party, and every person, not a party, against whom obedience to any order may be enforced shall be liable to the same process for enforcing obedience to such orders as if that person were a party.

RULE 1.600. DEPOSITS IN COURT

In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party may deposit all or any part of such sum or thing with the court upon notice to every other party and by leave of court. Money paid into court under this rule shall be deposited and withdrawn by order of court.

RULE 1.610. INJUNCTIONS

(a) Temporary Injunction.

(1) A temporary injunction may be granted without written or oral notice to the adverse party only if:

(A) it appears from the specific facts shown by affidavit or verified pleading that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

FORM 1.977. FACT INFORMATION SHEET

(a) For Individuals.

(CAPTION)

FACT INFORMATION SHEET

Full Legal Name: _____
Nicknames or Aliases: _____
Residence Address: _____
Mailing Address (if different): _____
Telephone Numbers: (Home) _____
(Business) _____
Name of Employer: _____
Address of Employer: _____
Position or Job Description: _____
Rate of Pay: \$ _____ per _____. Average Paycheck: \$ _____ per _____
Average Commissions or Bonuses: \$ _____ per _____.
Commissions or bonuses are based on _____
Other Personal Income: \$ _____ from _____
(Explain details on the back of this sheet or an additional sheet if necessary.)
Social Security Number: _____ Birthdate: _____
Driver's License Number: _____
Marital Status: _____ Spouse's Name: _____

Spouse Related Portion

Spouse's Address (if different): _____
Spouse's Social Security Number: _____ Birthdate: _____
Spouse's Employer: _____
Spouse's Average Paycheck or Income: \$ _____ per _____
Other Family Income: \$ _____ per _____ (Explain details on back of this sheet or an additional sheet if necessary.)
Describe all other accounts or investments you may have, including stocks, mutual funds, savings bonds, or annuities, on the back of this sheet or on an additional sheet if necessary.

Names and Ages of All Your Children (and addresses if not living with you): _____
Child Support or Alimony Paid: \$ _____ per _____

Names of Others You Live With: _____
Who is Head of Your Household? _____ You _____ Spouse _____ Other Person
Checking Account at: _____ Account # _____
Savings Account at: _____ Account # _____

For Real Estate (land) You Own or Are Buying: _____
Address: _____
All Names on Title: _____
Mortgage Owed to: _____
Balance Owed: _____
Monthly Payment: \$ _____

(Attach a copy of the deed or mortgage, or list the legal description of the property on the back of this sheet or an additional sheet if necessary. Also provide the same information on any other property you own or are buying.)

For All Motor Vehicles You Own or Are Buying: _____
Year/Make/Model: _____ Color: _____
Vehicle ID #: _____ Tag No: _____ Mileage: _____
Names on Title: _____ Present Value: \$ _____
Loan Owed to: _____
Balance on Loan: \$ _____
Monthly Payment: \$ _____

(List all other automobiles, as well as other vehicles, such as boats, motorcycles, bicycles, or aircraft, on the back of this sheet or an additional sheet if necessary.)

Have you given, sold, loaned, or transferred any real or personal property worth more than \$100 to any person in the last year? If your answer is "yes," describe the property, market value, and sale price, and give the name and address of the person who received the property.

Does anyone owe you money? Amount Owed: \$ _____
Name and Address of Person Owning Money: _____
Reason money is owed: _____

Please attach copies of the following:

- a. Your last pay stub.
- b. Your last 3 statements for each bank, savings, credit union, or other financial account.

- c. Your motor vehicle registrations and titles.
- d. Any deeds or titles to any real or personal property you own or are buying, or leases to property you are renting.
- e. Your financial statements, loan applications, or lists of assets and liabilities submitted to any person or entity within the last 3 years.
- f. Your last 2 income tax returns filed.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

Judgment Debtor

STATE OF FLORIDA
COUNTY OF

Sworn to (or affirmed) and subscribed before me this _____ day of _____
(year) by (name of person making statement)

Notary Public State of Florida
My Commission expires:

Personally known _____ OR Produced Identification _____
Type of identification produced _____

YOU MUST MAIL OR DELIVER THIS COMPLETED FORM, WITH ALL ATTACHMENTS, TO THE JUDGMENT CREDITOR OR THE JUDGMENT CREDITOR'S ATTORNEY, BUT DO NOT FILE THIS FORM WITH THE CLERK OF COURT.

(b) For Corporations and Other Business Entities.

(CAPTION)

FACT INFORMATION SHEET

Name of entity: _____
March 16, 2015 Florida Rules of Civil Procedure 215

Name and title of person filling out this form: _____
 Telephone number: _____
 Place of business: _____
 Mailing address (if different): _____
 Gross/taxable income reported for federal income tax purposes last three years:
 \$ _____ / \$ _____ \$ _____ / \$ _____ \$ _____ / \$ _____
 Taxpayer identification number: _____
 Is this entity an S corporation for federal income tax purposes? ____ Yes ____ No
 Average number of employees per month _____
 Name of each shareholder, member, or partner owning 5% or more of the entity's
 common stock, preferred stock, or other equity interest:

 Names of officers, directors, members, or partners: _____

 Checking account at: _____ Account # _____
 Savings account at: _____ Account # _____
 Does the entity own any vehicles? ____ Yes ____ No
 For each vehicle please state:
 Year/Make/Model: _____ Color: _____
 Vehicle ID No: _____ Tag No: _____ Mileage: _____
 Names on Title: _____ Present Value: \$ _____
 Loan Owed to: _____
 Balance on Loan: \$ _____
 Monthly Payment: \$ _____
 Does the entity own any real property? ____ Yes ____ No
 If yes, please state the address(es): _____

Please check if the entity owns the following:

____ Boat
 ____ Camper
 ____ Stocks/bonds
 ____ Other real property
 ____ Other personal property

Please attach copies of the following:

1. Copies of state and federal income tax returns for the past 3 years.

2. All bank, savings and loan, and other account books and statements for accounts in institutions in which the entity had any legal or equitable interest for the past 3 years.

3. All canceled checks for the 12 months immediately preceding the service date of this Fact Information Sheet for accounts in which the entity held any legal or equitable interest.

4. All deeds, leases, mortgages, or other written instruments evidencing any interest in or ownership of real property at any time within the 12 months immediately preceding the date this lawsuit was filed.

5. Bills of sale or other written evidence of the gift, sale, purchase, or other transfer of any personal or real property to or from the entity within the 12 months immediately preceding the date this lawsuit was filed.

6. Motor vehicle or vessel documents, including titles and registrations relating to any motor vehicles or vessels owned by the entity alone or with others.

7. Financial statements as to the entity's assets, liabilities, and owner's equity prepared within the 12 months immediately preceding the service date of this Fact Information Sheet.

8. Minutes of all meetings of the entity's members, partners, shareholders, or board of directors held within 2 years of the service date of this Fact Information Sheet.

9. Resolutions of the entity's members, partners, shareholders, or board of directors passed within 2 years of the service date of this Fact Information Sheet.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

Judgment Debtor's Designated
Representative/Title

STATE OF FLORIDA
COUNTY OF

March 16, 2015

Florida Rules of Civil Procedure

217

Sworn to (or affirmed) and subscribed before me this _____ day of _____
(year) by (name of person making statement).

Notary Public State of Florida
My Commission expires:

Personally known _____ OR Produced identification _____
Type of identification produced _____

**YOU MUST MAIL OR DELIVER THIS COMPLETED FORM, WITH ALL
ATTACHMENTS, TO THE PLAINTIFF'S JUDGMENT CREDITOR OR
THE PLAINTIFF'S JUDGMENT CREDITOR'S ATTORNEY, BUT DO
NOT FILE THIS FORM WITH THE CLERK OF THE COURT.**

Committee Notes

2000 Adoption. This form is added to comply with amendments to rule 1.560.

2013 Amendment. This amendment clarifies that the judgment debtor should mail or deliver the Fact Information Sheet only to the judgment creditor or the judgment creditor's attorney, and should not file the Fact Information Sheet with the clerk of the court.

FORM 1.980. DEFAULT

MOTION FOR DEFAULT

Plaintiff moves for entry of a default by the clerk against defendant
..... for failure to serve any paper on the undersigned or file any paper as
required by law.

Attorney for Plaintiff

DEFAULT

A default is entered in this action against the defendant named in the
foregoing motion for failure to serve or file any paper as required by law.

March 16, 2015

Florida Rules of Civil Procedure

218

excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial or rehearing; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; or (5) the judgment has been satisfied, released, or discharged or a prior judgment on which it is based has been reversed or otherwise vacated or it is no longer equitable that the judgment should have prospective application. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 1 year after the judgment, order, or proceeding was entered or taken. A motion under this subdivision does not affect the finality of a judgment or suspend its operation.

RULE 7.200. EXECUTIONS

Executions on judgments shall issue during the life of the judgment on the oral request of the party entitled to it or that party's attorney without praecipe. No execution or other final process shall issue until the judgment on which it is based has been rendered or within the time for serving a motion for new trial and, if a motion for new trial is timely served, until it is determined; provided execution or other final process may be issued on special order of the court at any time after judgment.

RULE 7.210. STAY OF JUDGMENT AND EXECUTION

(a) **Judgment or Execution or Levy Stayed.** When judgment is to be entered against a party, the judge may inquire and permit inquiry about the earnings and financial status of the party and has discretionary power to stay an entry of judgment or, if entered, to stay execution or levy on such terms as are just and in consideration of a stipulation on the part of the judgment debtor to make such payments as will ensure a periodic reduction of the judgment until it is satisfied.

(b) **Stipulation.** The judge shall note the terms of such stipulation in the file; the stipulation may be set out in the judgment or made a part of the judgment by reference to "the stipulation made in open court."

(c) **Execution.** When judgment is entered and execution stayed pending payments, if the judgment debtor fails to pay the installment payments, the judgment creditor may have execution without further notice for the unpaid amount of the judgment upon filing an affidavit of the amount due.

(d) **Oral Stipulations.** Oral stipulations may be made in the presence of the court that upon failure of the judgment debtor to comply with any agreement, judgment may be entered or execution issued, or both, without further notice.

Committee Notes

1988 Amendment. Adds the staying of levy as an alternative for the court when arranging payment. Provides lien rights priority protection for judgment creditors.

RULE 7.220. SUPPLEMENTARY PROCEEDINGS

Proceedings supplementary to execution may be had in accordance with proceedings provided by law or by the Florida Rules of Civil Procedure.

RULE 7.221. HEARING IN AID OF EXECUTION

(a) **Use of Form 7.343.** In any final judgment, the judge shall include the Enforcement Paragraph of form 7.340 if requested by the prevailing party or attorney. In addition to the forms of discovery available to the judgment creditor under Fla. R. Civ. P. 1.560, the judge, at the request of the judgment creditor or the judgment creditor's attorney, shall order a judgment debtor to complete form 7.343 within 30 days of the order or other such reasonable time determined by the court. If the judgment debtor fails to obey the order, Fla. R. Civ. P. Form 1.982 may be used in conjunction with this subdivision of this rule.

(b) **Purpose of Hearing.** The judge, at the request of the judgment creditor, shall order a judgment debtor to appear at a hearing in aid of execution at a time certain 30 or more days from the date of entry of a judgment for the purpose of inquiring of the judgment debtor under oath as to earnings, financial status, and any assets available in excess of exemptions to be applied towards satisfaction of judgment. The provisions of this subdivision of this rule shall only apply to a judgment creditor who is a natural person and was not represented by an attorney prior to judgment. Forms 7.342, 7.343, and 7.344 shall be used in connection with this subdivision of this rule.

Committee Notes

1988 Amendment. Provides a procedure for postjudgment, court-assisted discovery for natural person judgment creditors, unrepresented by counsel prior to judgment.

1996 Amendment. The purpose of the change is to make form 7.343 (Fact Information Sheet) available for use by both a party and the party's attorney, even though the hearing in aid of execution is not available to the attorney. The rule will allow the court to include the order as part of the final judgment or to issue the order after the judgment. The court may adjust the time allowed for the response to the Fact Information Sheet to fit the

PLAINTIFF(S)
DEFENDANT(S)

Plaintiff(s)'s address:

.....

.....

Defendant(s)'s last known address and
last four digits of defendant(s)'s Social Security Number (if known):

.....

.....

.....

(OPTIONAL ENFORCEMENT PARAGRAPH — TO
BE INCLUDED UPON REQUEST
PURSUANT TO RULE 7.221)

It is further ordered and adjudged that the defendant(s) shall complete Florida Small Claims Rules Form 7.343 (Fact Information Sheet) and return it to the plaintiff's attorney, or to the plaintiff if the plaintiff is not represented by an attorney, within 45 days from the date of this final judgment, unless the final judgment is satisfied or a motion for new trial or notice of appeal is filed. **The defendant should NOT file the completed form 7.343 with the court.**

Jurisdiction of this case is retained to enter further orders that are proper to compel the defendant(s) to complete form 7.343 and return it to the plaintiff's attorney, or the plaintiff if the plaintiff is not represented by an attorney.

Committee Notes

1992 Amendment. The optional enforcement paragraph was added to facilitate discovery.

FORM 7.341. EXECUTION

(CAPTION)

EXECUTION

THE STATE OF FLORIDA:

March 5, 2015

Florida Small Claims Rules

37

To Each Sheriff of the State:

YOU ARE HEREBY COMMANDED to levy on the goods and chattels, lands, and tenements of in the sum of \$..... with legal interest thereon from(date)....., until paid and that you have this writ before the court when satisfied.

WITNESS my hand and the seal of the court on(date).....

(SEAL)

Clerk of the Court

**FORM 7.342. EX PARTE MOTION AND ORDER FOR
HEARING IN AID OF EXECUTION**

(CAPTION)

**EX PARTE MOTION FOR HEARING
IN AID OF EXECUTION**

The judgment creditor,, pursuant to Florida Small Claims Rule 7.221, moves for an order requiring the judgment debtor(s),, to appear at a hearing in aid of execution for the purpose of examining the judgment debtor(s) regarding his/her/their ability to satisfy the final judgment entered in this cause and requiring the judgment debtor(s) to complete a FACT INFORMATION SHEET and bring it to the hearing in aid of execution.

Judgment Creditor

**ORDER FOR HEARING IN
AID OF EXECUTION**

IT IS ORDERED AND ADJUDGED that the judgment debtor(s),
....., Address:, shall:

1. appear before Judge on(date)....., at o'clock
.....m., in Courtroom, located at:, Florida, to

March 5, 2015

Florida Small Claims Rules

38

be examined as to the judgment debtor('s)(s') ability to satisfy the final judgment entered in this cause; and

2. bring to the hearing all documents and papers that relate to the judgment debtor('s)(s') financial condition and the completed, notarized fact information sheet attached hereto.

Judgment debtor('s)(s') failure to comply with this order shall be grounds for contempt.

ORDERED at, Florida, on(date).....

County Court Judge

FORM 7.343. FACT INFORMATION SHEET

(a) For Individuals

(CAPTION)

FACT INFORMATION SHEET — INDIVIDUAL

Full Legal Name: _____
Nicknames or Aliases: _____
Residence Address: _____
Mailing Address (if different): _____
Telephone Numbers: (Home) _____ (Business) _____
Name of Employer: _____
Address of Employer: _____
Position or Job Description: _____
Rate of Pay: \$ ____ per ____ . Average Paycheck: \$ ____ per ____
Average Commissions or Bonuses: \$ ____ per ____ . Commissions or bonuses are based on _____
Other Personal Income: \$ ____ from _____
(Explain details on the back of this sheet or an additional sheet if necessary.)
Social Security Number: _____ Birthdate: _____
Driver's License Number: _____

Marital Status: _____ Spouse's Name: _____
Spouse's Address (if different): _____
Spouse's Social Security Number: _____ Birthdate: _____
Spouse's Employer: _____
Spouse's Average Paycheck or Income: \$ _____ per _____
Other Family Income: \$ _____ per _____ (Explain details on back of this sheet or an additional sheet if necessary.)
Names and Ages of All Your Children (and addresses if not living with you): _____

Child Support or Alimony Paid: \$ _____ per _____
Names of Others You Live With: _____
Who is Head of Your Household? _____ You _____ Spouse _____ Other Person _____
Checking Account at: _____ Account # _____
Savings Account at: _____ Account # _____
(Describe all other accounts or investments you may have, including stocks, mutual funds, savings bonds, or annuities, on the back of this sheet or an additional sheet if necessary.)

For Real Estate (land) You Own or Are Buying:

Address: _____
All Names on Title: _____
Mortgage Owed to: _____
Balance Owed: _____
Monthly Payment: \$ _____

(Attach a copy of the deed or mortgage, or list the legal description of the property on the back of this sheet or an additional sheet if necessary. Also provide the same information on any other property you own or are buying.)

For All Motor Vehicles You Own or Are Buying:

Year/Make/Model: _____ Color: _____
Vehicle ID #: _____ Tag No: _____ Mileage: _____
Names on Title: _____ Present Value: \$ _____
Loan Owed to: _____
Balance on Loan: \$ _____

Monthly Payment: \$ _____ (List all other automobiles, as well as other vehicles, such as boats, motorcycles, bicycles, or aircraft, on the back of this sheet or an additional sheet if necessary.)

Have you given, sold, loaned, or transferred any real or personal property worth more than \$100 to any person in the last year? If your answer is "yes," describe the property and sale price, and give the name and address of the person who received the property.

Does anyone owe you money? Amount Owed: \$ _____

Name and Address of Person Owning Money: _____

Reason money is owed: _____

Please attach copies of the following:

1. Your last pay stub.
2. Your last 3 statements for each bank, savings, credit union, or other financial account.
3. Your motor vehicle registrations and titles.
4. Any deeds or titles to any real or personal property you own or are buying, or leases to property you are renting.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

Judgment Debtor

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me on(date)....., by , who is personally known to me or has produced as identification and whodid/did not..... take an oath.

WITNESS my hand and official seal, on(date).....

Notary Public
State of Florida

March 5, 2015

Florida Small Claims Rules

41

My Commission expires:

MAIL OR DELIVER THE COMPLETED FORM TO THE JUDGMENT CREDITOR OR THE JUDGMENT CREDITOR'S ATTORNEY. DO NOT FILE THIS FORM WITH THE COURT.

(b) For Corporate Entities

(CAPTION)

FACT INFORMATION SHEET — BUSINESS ENTITY

Name/Title of person filling out this form: _____

Address: _____

Telephone Number: Home: _____ Business: _____

Address of Business Entity: _____

Type of Entity: (Check One)

☐ Corporation

☐ Sole Proprietorship ☐ Limited Liability Corporation (LLC) ☐ Professional Association (PA) ☐ Other: (Please Explain)

Does Business Entity own/have interest in any other business entity? If so please explain.

Gross/Taxable income reported for Federal Income Tax purposes last three years:

\$ _____ \$ _____ \$ _____

Taxpayer Identification Number: _____

List Partners (General or Limited and Designate Percentage of Ownership): _____

Average No. of Employees/Month: _____

Names of Officers and Directors: _____

Checking Account at: _____ Account No: _____

Savings Account At: _____ Account No: _____

Does the Business Entity own any vehicles: _____

Years/Makes/Models: _____

Vehicle I.D. Nos.: _____

Tag Nos.: _____

Loans Outstanding: _____

Does the Business Entity own any real property: YES _____ NO _____

If Yes: Address: _____

Please check if the business entity owns the following:

| | |
|--|--|
| <input type="checkbox"/> Boat | <input type="checkbox"/> Camper |
| <input type="checkbox"/> Stocks/Bonds | <input type="checkbox"/> Other Real Property |
| <input type="checkbox"/> Other Personal Property | <input type="checkbox"/> Intangible Property |

Please attach copies of the following:

1. All tax returns for the past 3 years, including but not limited to state and federal income tax returns and tangible personal property tax returns.
2. All bank, savings and loan, and other account books or statements for accounts in institutions in which the defendant had any legal or equitable interest for the past 3 years.
3. All canceled checks for the 12 months immediately preceding the date of this judgment for accounts in which the defendant held any legal or equitable interest.
4. All deeds, leases, mortgages, or other written instruments evidencing any interest in or ownership of real property at any time within the 12 months immediately preceding the date of this judgment.
5. Bills of sale or other written evidence of the gift, sale, purchase, or other transfer of any personal or real property to or from the defendant within the 12 months immediately preceding the date of filing this lawsuit. Any transfer of property within the last year other than ordinary course of business transactions.
6. Motor vehicle documents, including titles and registrations relating to any motor vehicles owned by the defendant alone or with others.
7. Financial statements and any other business records, including but not limited to accounts payable and accounts receivable ledgers, as to the defendant's assets and liabilities prepared within the 12 months immediately preceding the date of this judgment.

8. Copies of articles, by-laws, partnership agreement, operating agreement, and any other governing documents, and minutes of all meetings of the defendant's shareholders, board of directors, or members held within 2 years of the date of this judgment.

9. Resolutions of the shareholders, board of directors, or members passed within 2 years of the date of this judgment.

10. A list or schedule of all inventory and equipment.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

Defendant's Designated Representative
Title:.....

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me on(date)....., by, as the defendant's duly authorized representative, who is personally known to me or has produced as identification and whodid/did not..... take an oath.

WITNESS my hand and official seal, on(date).....

Notary Public
State of Florida

My Commission expires:

MAIL OR DELIVER THE COMPLETED FORM TO THE JUDGMENT CREDITOR OR THE JUDGMENT CREDITOR'S ATTORNEY. DO NOT FILE THIS FORM WITH THE COURT.

FORM 7.344.

ORDER TO SHOW CAUSE

(CAPTION)

ORDER TO SHOW CAUSE

IN THE NAME OF THE STATE OF FLORIDA:

TO:

YOU ARE HEREBY COMMANDED TO APPEAR before this court on(date)....., atm., in Courtroom at the County Courthouse, Address:, Florida, to show cause, if any, why you should not be adjudged in contempt of court for your failure to appear in court on(date)....., atm., as required by the court's order issued on(date)....., for a hearing in aid of execution.

ORDERED at, Florida, on(date).....

County Court Judge

FORM 7.345.

**STIPULATION FOR INSTALLMENT
SETTLEMENT, ORDER APPROVING
STIPULATION, AND DISMISSAL**

(CAPTION)

**STIPULATION FOR INSTALLMENT SETTLEMENT, ORDER
APPROVING STIPULATION, AND DISMISSAL**

Plaintiff and defendant(s), by the signatures below, stipulate that defendant(s) is/are indebted to plaintiff in the sum of \$....., plus court costs of \$....., interest of \$....., and attorneys' fees of \$....., which defendant(s) agree(s) to pay in installments of \$....., the first of such payments to be due on(date)....., and continuing each until paid in full. If the total sum is paid timely and in full, plaintiff agrees that no judgment shall be entered against the defendant(s), and that additional costs, interest, and attorneys' fees, if any, shall be waived. If the defendant(s) shall default in payment hereunder, plaintiff shall be

March 5, 2015

Florida Small Claims Rules

45

IN THE COUNTY COURT OF THE
NINTH JUDICIAL CIRCUIT OF FLORIDA
ORANGE COUNTY, FLORIDA

Case Number _____

VS
Plaintiff(s)

Defendant(s)

AFFIDAVIT OF NON-COMPLIANCE

Before me, the undersigned authority, appeared _____
who being first duly sworn, says that _____
has failed to _____

by _____ as agreed to in the stipulation dated
_____.

☐ That said Defendant(s) has/have failed to make payment of money due said Plaintiff(s) in the manner provided in the stipulation previously filed in this cause.

☐ That of the money stated in said stipulation to be due said Plaintiff(s) from said Defendant(s) \$ _____ damages plus \$ _____ costs are now past due and unpaid.

Plaintiff(s)

Sworn to and subscribed before me this _____.

Deputy Clerk/Notary Public

IN THE COUNTY COURT
OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY FLORIDA

Case Number _____

Plaintiff(s)

VS

Defendant(s)

MOTION FOR EX-PARTE HEARING IN AID OF EXECUTION

The judgment creditor _____ pursuant To Florida Small Claims Rule 7.221, moves for an order requiring the judgment Debtor(s) regarding his/her/their examining the judgment debtor(s) regarding his/her/their ability to satisfy the Final Judgment entered in this cause and requiring the judgment debtor(s) to complete a FACT SHEET and bring it to the hearing in aid of execution.

Judgment Creditor

1A Fla. Pl. & Pr. Forms § 6:120

Florida Pleading and Practice Forms
Database updated September 2014

Henry P. Trawick, Jr.

Civil Procedure
Chapter 6. Judgment
VIII. Enforcement of Judgment
C. Garnishment
2. Forms

Summary Correlation Table

§ 6:120. Motion—By plaintiff—For writ of garnishment—After judgment (§ 77.03, Fla. Stat.)

[Caption, see § 6:8]

MOTION FOR ISSUANCE WRIT OF GARNISHMENT

The undersigned attorney for plaintiff moves the court for issuance of a writ of garnishment directed to *[name of garnishee]*, who is believed by plaintiff to have possession or control of tangible or intangible assets of defendant in the above-entitled action.

On *[date of judgment]*, plaintiff obtained judgment against defendant in the action, which was for *[description of action]*.

The amount of the judgment debt was \$*[dollar amount of sum]*.

Plaintiff believes that defendant will not have in defendant's possession, after execution is issued, tangible or intangible property in the state and in the county in which the action is pending on which a levy can be made sufficient to satisfy plaintiff's claim.

Plaintiff therefor requests that plaintiff be granted a writ of garnishment against the mentioned garnishee as to whatever tangible and intangible personal property of defendant that garnishee has in possession or control.

Copies of this motion are requested to be served on *[names of adverse parties]*.

Dated: *[date of motion]*

I CERTIFY that a copy of the above motion has been furnished to *[names of recipients]*, at *[addresses of recipients]* by *[delivery/ mail/fax]* on *[date of service]*.

Respectfully submitted,

_____*[Name of attorney]*

Attorney for Plaintiff

[Address of attorney]

[Phone number of attorney]

[E-mail address of attorney]

[Bar number of attorney]

Notes

Practice Notes

After judgment has been obtained against the defendant but before the writ of garnishment is issued, the plaintiff, or an agent or attorney, must file a motion, which need not be verified or negative the defendant's exemptions, stating the amount of the judgment and that the movant does not believe that the defendant has in the defendant's possession visible property on which a levy can be made sufficient to satisfy the judgment. The motion may be filed and the writ issued either before or after the return of the execution. § 77.03, Fla. Stat.

West's Key Number Digest

West's Key Number Digest, Garnishment 86 to 88

Legal Encyclopedias

Fla. Jur. 2d, Creditors' Rights and Remedies § 143

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1A Fla. Pl. & Pr. Forms § 6:117

Florida Pleading and Practice Forms
Database updated September 2014

Henry P. Trawick, Jr.

Civil Procedure
Chapter 6. Judgment
VIII. Enforcement of Judgment
C. Garnishment
2. Forms

Summary Correlation Table

§ 6:117. Writ of garnishment (§ 77.04, Fla. Stat.; Fla. R. Civ. P. 1.907)

[Caption, see § 6:8]

WRIT OF GARNISHMENT

THE STATE OF FLORIDA:
To Each Sheriff of the State:

YOU ARE COMMANDED to summon garnishee, *[name of garnishee]*, to serve an answer to this writ on *[name of attorney]*, plaintiff's attorney, whose address is *[address of attorney]*, within 20 days after service on the garnishee, exclusive of the day of service, and to file the original with the clerk of this court either before service on the attorney or immediately after that, stating whether the garnishee is indebted to defendant, *[name of defendant]*, at the time of the answer or was indebted at the time of service of the writ, or at any time between those times, and in what sum, and what tangible and intangible personal property of defendant the garnishee has in garnishee's possession or control at the time of the answer or had at the time of service of this writ, or at any time between those times, and whether the garnishee knows of any other person indebted to defendant or who may have any of the property of defendant in the person's possession or control. The amount stated in plaintiff's motion is \$*[dollar amount of sum]*.

Defendant under garnishment is given notice of the right to an immediate hearing for dissolution of the writ pursuant to statutory provisions.

Dated: *[date of writ]*
_____*[As Clerk of the Court]*
_____*[As Deputy Clerk]*

Notes

Practice Notes

The above form is based on Fla. R. Civ. P. Form 1.907 for use with the Florida Rules of Civil Procedure.

The writ of garnishment must require the garnishee to serve an answer to it on the plaintiff within 20 days after service stating whether the garnishee is indebted to the defendant at the time of the answer, or was indebted at the time of service of the writ, or

at any time between such times; in what sum, and what tangible or intangible personal property of the defendant the garnishee has possession or control of at the time of the answer, or had at the time of service of the writ, or at any time between such times; and whether the garnishee knows of any other person indebted to the defendant, or who may have possession or control of any of the property of the defendant. The writ must state the amount named in the plaintiff's motion. § 77.04, Fla. Stat.

The writ of garnishment must set forth a notice to the defendant of the right to an immediate hearing for dissolution of the writ pursuant to statutory provisions. On issuance of the writ of garnishment, the clerk of the court must provide by mail a copy of the writ to the defendant. § 77.031(2), Fla. Stat.

West's Key Number Digest

West's Key Number Digest, Garnishment 90 to 93

Legal Encyclopedias

Fla. Jur. 2d, Creditors' Rights and Remedies §§ 134 to 136

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1A Fla. Pl. & Pr. Forms § 6:118

Florida Pleading and Practice Forms
Database updated September 2014

Henry P. Trawick, Jr.

Civil Procedure
Chapter 6. Judgment
VIII. Enforcement of Judgment
C. Garnishment
2. Forms

Summary Correlation Table

§ 6:118. Continuing writ of garnishment against salary or wages (§ 77.0305, Fla. Stat.; Fla. R. Civ. P. 1.907(b))

[Caption, see § 6:8]

WRIT OF GARNISHMENT

THE STATE OF FLORIDA:
To Each Sheriff of the State:

YOU ARE COMMANDED to summon garnishee *[name of garnishee]*, whose address is *[address of garnishee]*, who is required to serve an answer to this writ on *[name of attorney]*, plaintiff's attorney, whose address is *[address of attorney]*, within 20 days after service of this writ, exclusive of the day of service, and to file the original with the clerk of court either before service on the attorney or immediately after service. The answer shall state whether the garnishee is the employer of defendant *[name of defendant]* and whether the garnishee is indebted to defendant of salary or wages. Garnishee's answer shall specify the periods of payment *[weekly/biweekly/monthly]* and amount of salary or wages and be based on defendant's earnings for the pay period during which this writ is served on garnishee.

During each pay period, a portion of defendant's salary or wages as it becomes due shall be held and not disposed of or transferred until further order of this court. The amount of salary or wages to be withheld for each pay period shall be made in accordance with the following paragraph. This writ shall continue until plaintiff's judgment is paid in full or until otherwise provided by court order.

Federal law (15 U.S.C.A. §§ 1671 to 1673) limits the amount to be withheld from salary or wages to no more than 25% of any individual defendant's disposable earnings for any pay period or to no more than the amount by which the individual's disposable earnings for the pay period exceed 30 times the federal minimum hourly wage, whichever is less.

For administrative costs, garnishee may collect *[\$[dollar amount of sum]* against the salary or wages of defendant for the first deduction and *[\$[dollar amount of sum]* for each deduction after that.

The total amount of the final judgment outstanding as set out in plaintiff's motion is *[\$[dollar amount of sum]*.

FAILURE TO FILE AN ANSWER WITHIN THE TIME REQUIRED MAY RESULT IN THE ENTRY OF
JUDGMENT AGAINST GARNISHEE FOR THE ABOVE TOTAL AMOUNT OF \$[DOLLAR AMOUNT OF SUM].

ORDERED at [name of city], Florida on [date of order].

_____ [As Clerk of the Court]

_____ [As Deputy Clerk]

Notes

West's Key Number Digest

West's Key Number Digest, Garnishment 90 to 93

Legal Encyclopedias

Fla. Jur. 2d, Creditors' Rights and Remedies § 133

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1A Fla. Pl. & Pr. Forms § 6:121

Florida Pleading and Practice Forms
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Henry P. Trawick, Jr.

Civil Procedure
Chapter 6. Judgment
VIII. Enforcement of Judgment
C. Garnishment
2. Forms

Summary Correlation Table

§ 6:121. Answer—Of garnishee (§ 77.06, Fla. Stat.)

[Caption, see § 6:8]

ANSWER TO MOTION FOR ISSUANCE OF WRIT OF GARNISHMENT

To the Sheriff of *[name of county]*, Florida:

In answer to the garnishment served on me in the above-entitled cause, I state:

On the date of the service of the writ, on *[date of service]*, I *[was/was not]* indebted to defendant, and *[am/am not]* indebted to defendant at the time of this answer, and *[was/was not]* indebted to defendant at any time between those times.

[OPTIONAL: *[Description of debt].*]

Garnishee *[knows/does not know]* of any other person indebted to defendant or who may have possession or control property of defendant.

[OPTIONAL: *[Names and addresses of persons indebted to defendant].*]

Dated: *[date of answer]*

I CERTIFY that a copy of the above answer has been furnished to *[names of recipients]*, at *[addresses of recipients]* by *[delivery/mail/fax]* on *[date of service]*.

_____ *[Name of garnishee]*

Notes

Practice Notes

The garnishee must report in its answer, and retain, subject to disposition pursuant to statutory provision, any deposit, account, or tangible or intangible personal property of the defendant in the possession or control of the garnishee; and the answer must state the name or names and addresses, if known, of the defendant and any other persons having or appearing to have an ownership interest in the involved property. § 77.06(2), Fla. Stat.

In any case where a garnishee in good faith is in doubt as to whether any indebtedness or property is required by law to be included in the garnishee's answer or retained by it, the garnishee may include and retain the property, subject to disposition pursuant under statutory provision. § 77.06(3), Fla. Stat.

West's Key Number Digest

West's Key Number Digest, Garnishment ¶104

Legal Encyclopedias

Fla. Jur. 2d, Creditors' Rights and Remedies § 139

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1A Fla. Pl. & Pr. Forms § 6:122

Florida Pleading and Practice Forms
Database updated September 2014

Henry P. Trawick, Jr.

Civil Procedure
Chapter 6. Judgment
VIII. Enforcement of Judgment
C. Garnishment
2. Forms

Summary Correlation Table

§ 6:122. Notice—To defendant and interested persons (§ 77.055, Fla. Stat.)

[Caption, see § 6:8]

NOTICE OF ISSUANCE OF WRIT OF GARNISHMENT

To: [Name of attorney].
Attorney for defendant
[Address of attorney]

To: [names and addresses of recipients]

And all others whom it may concern:

YOU ARE NOTIFIED that a writ of garnishment has been issued in the above-entitled cause, and that defendant's property in the hands of [name of holder] has been garnisheed, and that, unless defendant, or any person interested in the property, appears before this court, and moves to dissolve the writ, on or before [date of appearance], judgment by default will be entered.

If defendant or other recipient of this notice have statutory exemption from the garnishment, the exemption must be asserted as a defense.

Dated: [date of notice]
_____ [Name of attorney]

Attorney for Plaintiff
[Address of attorney]
[Phone number of attorney]
[E-mail address of attorney]
[Bar number of attorney]

I certify that a copy of this notice and the attached writ of garnishment and answer of garnishee have been furnished to defendant and to [names of recipients] by [delivery/mail] on [date of service].

[Copies of writ and answer]

Notes

Practice Notes

Within five days after service of the garnishee's answer on the plaintiff, the plaintiff must serve, by mail, the following documents: a copy of the writ, a copy of the answer, a notice, and a certificate of service. The notice must advise the recipient that the recipient must move to dissolve the writ within the time period set forth by statute or be defaulted, and that the recipient may have exemptions from the garnishment which must be asserted as a defense. The plaintiff must serve these documents on the defendant at the defendant's last known address and any other address disclosed by the garnishee's answer, and on any other person disclosed in the garnishee's answer to have an ownership interest in the deposit, account, or property controlled by the garnishee. The plaintiff must file in the proceeding a certificate of such service. § 77.055, Fla. Stat.

West's Key Number Digest

West's Key Number Digest, Garnishment ¶¶ 99 to 103

Legal Encyclopedias

Fla. Jur. 2d, Creditors' Rights and Remedies § 149

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**IN THE COUNTY COURT OF
THE NINTH JUDICIAL CIRCUIT IN AND
FOR ORANGE COUNTY, FLORIDA**

NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT OF WAGES, MONEY, AND OTHER
PROPERTY

The Writ of Garnishment delivered to you with this Notice means that wages, money, and other property belonging to you have been garnished to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES, MONEY, OR PROPERTY. READ THIS NOTICE CAREFULLY.

State and federal laws provide that certain wages, money, and property, even if deposited in a bank, savings and loan, or credit union, may not be taken to pay certain types of court judgments. Such wages, money, and property are exempt from garnishment. The major exemptions are listed below on the form for Claim of Exemption and Request for Hearing. This list does not include all possible exemptions. You should consult a lawyer for specific advice.

IF AN EXEMPTION FROM GARNISHMENT APPLIES TO YOU AND YOU WANT TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY FROM BEING GARNISHED, OR TO RECOVER ANYTHING ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS SET FORTH BELOW AND HAVE THE FORM NOTARIZED. IF YOU HAVE A VALID EXEMPTION, YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM TO THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY AND THE GARNISHEE OR THE GARNISHEE'S ATTORNEY AT THE ADDRESSES LISTED ON THE WRIT OF GARNISHMENT. NOTE THAT THE FORM REQUIRES YOU TO COMPLETE A CERTIFICATION THAT YOU MAILED OR HAND DELIVERED COPIES TO THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY AND THE GARNISHEE OR THE GARNISHEE'S ATTORNEY

If you request a hearing, it will be held as soon as possible after your request is received by the court. The plaintiff or the plaintiff's attorney must file any objection within 8 business days if you hand delivered to the plaintiff or the plaintiff's attorney a copy of the form for Claim of Exemption and Request for Hearing or, alternatively, 14 business days if you mailed a copy of the form for claim and request to the plaintiff or the plaintiff's attorney. If the plaintiff or the plaintiff's attorney files an objection to your Claim of Exemption and Request for Hearing, the clerk will notify you and the other parties of the time and date of the hearing. You may attend the hearing with or without an attorney. If the plaintiff or the plaintiff's attorney fails to file an objection, no hearing is required, the writ of garnishment will be dissolved and your wages, money, or property will be released.

IF YOU HAVE A VALID EXEMPTION, YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR PROPERTY FROM BEING APPLIED TO THE COURT JUDGMENT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED LEGAL ASSISTANCE YOU SHOULD SEE A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, LEGAL SERVICES MAY BE AVAILABLE. CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE CLERK'S OFFICE ABOUT ANY LEGAL SERVICES PROGRAM IN YOUR AREA.

IN THE CIRCUIT COURT OF
THE NINTH JUDICIAL CIRCUIT IN AND
FOR ORANGE COUNTY, FLORIDA

Case Number _____

Plaintiff(s)

Vs.

Defendant(s)

Garnishee

CLAIM OF EXEMPTION AND REQUEST FOR HEARING

I claim exemptions from garnishment under the following categories as checked:

- ____ 1. Head of family wages. (You must check a or b below.)
 - ____ a. I provide more than one half of the support for a child or other dependent and have net earnings of \$750.00 or less per week.
 - ____ b. I provide more than one half of the support for a child or other dependent have net earnings of more than \$750.00 per week, but have not agreed in writing to have my wages garnished.
- ____ 2. Social Security benefits.
- ____ 3. Supplemental Security income benefits.
- ____ 4. Public assistance (welfare).
- ____ 5. Workers' Compensation.
- ____ 6. Unemployment compensation.
- ____ 7. Veterans' benefits.
- ____ 8. Retirement or profit sharing benefits or pension money.
- ____ 9. Life insurance benefits or cash surrender value of a life insurance policy or proceeds of annuity contract.
- ____ 10. Disability income benefits.
- ____ 11. Prepaid College Trust Fund or Medical Savings Account.
- ____ 12. Other exemptions as provided by law. (Explain) _____

I request a hearing to decide the validity of my claim. Notice of the hearing should be given to me at:

Address: _____
City _____, State _____ Zip _____ Telephone Number: _____

I CERTIFY UNDER OATH AND PENALTY OF PERJURY that a copy of this CLAIM OF EXEMPTION AND REQUEST FOR HEARING has been furnished by (circle one) United States Mail/Hand Delivery on _____ (date) to:.

(Insert names and addresses of Plaintiff or Plaintiff's attorney and of Garnishee of Garnishee's attorney to whom this document was furnished)

I FURTHER CERTIFY UNDER OATH AND PENALTY OF PERJURY that the statements made in this request are true to the best of my knowledge and belief.

(Defendant's signature) (Date)

STATE OF FLORIDA
COUNTY OF ORANGE
Sworn and subscribed to before me this _____ day of _____

by _____
(Name of person making statement)

Notary Public/Deputy Clerk

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

1A Fla. Pl. & Pr. Forms § 6:124

Florida Pleading and Practice Forms
Database updated September 2014

Henry P. Trawick, Jr.

Civil Procedure
Chapter 6. Judgment
VIII. Enforcement of Judgment
C. Garnishment
2. Forms

Summary Correlation Table

§ 6:124. Bond—Of plaintiff (Fla. R. Civ. P. 1.960 and 1.961(a))

[Caption, see § 6:8]

[Designation of pleading]

Whereas plaintiff has sued out a writ of garnishment in the above-entitled action,

We, [name of plaintiff], as principal, and [name of surety], as surety, are bound to [name of defendant] in the sum of \$[dollar amount of sum], for the payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that, if plaintiff shall pay all costs, damages, and attorney's fees that defendant sustains in consequence of plaintiff improperly suing out a writ of garnishment in this action, then this bond is void; otherwise, it remains in force.

SIGNED AND SEALED on [date of execution].

Approved on [date of approval].

_____ As Principal
_____ As Surety
_____ As Attorney in Fact

(Seal)

_____ As Clerk of the Court
_____ As Deputy Clerk

Notes

Practice Notes

The above form is based on Fla. R. Civ. P. Form 1.960 and 1.961(a) for use with the Florida Rules of Civil Procedure.

Except when the plaintiff has had an attachment writ issued, a writ of garnishment before judgment must not issue until the plaintiff, or an agent or attorney, gives a bond with surety to be approved by the clerk payable to the defendant in at least double the amount of the debt demanded, conditioned to pay all costs, damages, and attorney's fees that the defendant sustains in consequence of the plaintiff's improperly suing out the writ of garnishment. § 77.031(3), Fla. Stat.

West's Key Number Digest

West's Key Number Digest, Garnishment ¶239 to 247

Legal Encyclopedias

Fla. Jur. 2d, Creditors' Rights and Remedies § 153

Fla. Jur. 2d, Creditors' Rights and Remedies § 171

Fla. Jur. 2d, Creditors' Rights and Remedies § 190

Fla. Jur. 2d, Creditors' Rights and Remedies § 191

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IN THE COUNTY COURT OF THE
NINTH JUDICIAL CIRCUIT OF FLORIDA
ORANGE COUNTY, FLORIDA

Case Number : _____-CA-_____-O

Plaintiff(s)

VS.

Defendant (s)

and

Garnishee

FINAL JUDGMENT IN GARNISHMENT

The Court finding that the garnishee, _____ owes the Defendant(s),
_____ ; _____ and the garnishee's attorney is entitled to an attorney's
fee of ; _____.

It is ORDERED AND ADJUDGED that the Plaintiff(s) recover _____;
_____ (which includes plaintiff's costs and interest) from the indebted
garnishee; that the Garnishee's attorney recover _____; _____ attorney's fee
from the court registry (which includes the attorney fee deposit herein made); for which
let execution issue; and that Plaintiff(s) cost in the amount of ; _____ is taxed
against the defendant(s).

Done on this _____ day of _____, 20_____.

JUDGE