

## Collecting a Judgment

### What is a Judgment?

A judgment must be a final order from a Florida state court or from a United States District Court in Florida. To be "final," the judgment must contain conclusive and customary language establishing that judicial labor is at an end and the order is truly dispositive and final. Because execution is not permitted on judgments that do not determine with finality the rights and liabilities of the parties, the "final judgment" must not leave questions open for judicial determination.

If you wish to collect on a judgment, you will need to obtain a certified copy of it from the Clerk's Office. The fees for copies, certification, and recording are listed on our website.

### Judgment Lien against Personal Property (FS Chapter 55)

The judgment creditor may obtain a judgment lien against personal property owned by the judgment debtor by recording a Judgment Lien Certificate with the Florida Department of State. This is required before the Sheriff's Office can levy on personal property under FS chapter 77.

A judgment lien may be acquired on a judgment debtor's interest in all personal property in this state subject to execution under FS 56.061, other than fixtures, money, negotiable instruments, and mortgages. All of the judgment debtor's personal property located in Florida may be subject to such a lien. FS chapter 222 provides that certain property and wages of a judgment debtor may be exempt from forced sales and garnishment to pay a valid judgment.

Instructions and forms are available at [www.sunbiz.org/jlien\\_info.html](http://www.sunbiz.org/jlien_info.html), and general information is available at [www.sunbiz.org/jlien\\_how\\_to.html](http://www.sunbiz.org/jlien_how_to.html). A judgment lien lapses after 5 years but can be extended another 5 years by filing another judgment lien certificate. A judgment lien against real property cannot be filed through the Florida Department of State.

### Judgment Lien against Real Property (FS Chapter 55)

The judgment creditor may obtain a judgment lien against real property owned by the judgment debtor by having a certified copy of the judgment/order recorded in the Official Records of the county where the property is located.

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. Judgment liens on real property last for ten (10) years and may be renewed for an additional ten (10) years one time, not to exceed twenty (20) years from the date of the initial judgment.

Information about recording a lien in the Official Records of Leon County can be found on our website. A judgment lien against real property cannot be filed through the Florida Department of State.

### **Garnishment of Wages, Money or Property (FS Chapter 77)**

The judgment creditor may have the judgment debtor's property garnished. Garnishment involves the taking of tangible and/or intangible property of the judgment debtor that is in the possession of a third party and may include wages and bank accounts. Garnishment is a very technical and you may wish to consult with an attorney before proceeding. Keep in mind there are separate fees for a garnishment.

#### Wage Garnishment

Garnishment of a judgment debtor's wages is a common way to collect a judgment through the issuance and service of a Continuing Writ of Garnishment. This writ is issued by the court and instructs the judgment debtor's employer (the garnishee) to make periodic payments to the judgment creditor from a portion of the judgment debtor's salary, as it becomes due, until the judgment principle plus interest and costs are paid, or until otherwise provided by court order.

The judgment creditor files a Motion for a Continuing Writ of Garnishment and Continuing Writ of Garnishment Order with the Clerk's Office. The judgment creditor must pay the applicable garnishment fees. The motion and writ will be forwarded to the judge's office for review. Only a judge can issue a Continuing Writ of Garnishment.

#### Bank Garnishment

Garnishment of a judgment debtor's bank account is a common way to collect a judgment through the issuance and service of a Writ of Garnishment. The writ allows a bank to freeze assets (belonging to the judgment debtor) in its control. You will need to provide as much information regarding the judgment debtor's account, at least the name and location of the bank.

The judgment creditor files a Motion for Garnishment and Writ of Garnishment Order with the Clerk's Office. The judgment creditor must pay the applicable garnishment fees. Once issued, the writ must be served on the garnishee (judgment debtor's employer or bank) by a licensed process server.

The garnishee must file an answer within twenty (20) calendar days of being served, stating the sum and tangible or intangible personal property of the judgment debtor it had or has in its possession or control at the time of its answer, service of the writ, or at any time between such times; and whether the garnishee knows of any other person indebted to the judgment debtor, or who may have any property of the judgment debtor in their possession or control. Failure by the garnishee to file an answer may entitle the judgment creditor to judgment against the garnishee for the entire sum set forth in the judgment creditor's Motion for Continuing Writ of Garnishment.

In the case of bank garnishments you may obtain the funds being held by the garnishee by filing a motion requesting that the court order the garnishee to release said funds. This request must be made within six months of the Writ of Garnishment being served on the garnishee and should be specific as to the amounts requested to be released and should be consistent with the judgment.

#### Claims of Exemption against Garnishment

A judgment debtor who is an individual (exemptions do not exist for businesses) may claim certain exemptions (as set forth in FS 222) within twenty (20) days of the garnishee's being served with the Writ by filing a Claim of Exemption and Request for Hearing. If you are a judgment debtor claiming exemptions, please be sure to completely fill out the Certificate of Service section at the bottom of the Claim of Exemption form.

If the judgment debtor files a Claim of Exemption, the judgment creditor will have three business days (if the Claim of Exemption is hand-delivered) or eight business days (if the Claim of Exemption is mailed) to file an objection to said exemptions. If exemptions are claimed, wages, money, or property subject to the garnishment will continue to be garnished until further order of the court; however, they will be held in escrow until any dispute over the exemptions is resolved by the court. If a hearing is scheduled, the Clerk's Office or judge will notify the parties of the date and time via mail.

If the judgment creditor fails to file objections to the judgment debtor's Claim of Exemption within the allotted time frame, a hearing will not be required and the Writ of Garnishment will be dissolved by the Clerk. All parties will be notified via mail of the dissolution of the writ, and any wages, money, or property being held in escrow will be released back to the judgment debtor.

#### **Sheriff's Levy (FS Chapters 30, 55, 56 & 77)**

Once the judgment creditor has registered a judgment lien certificate against the judgment debtor's personal property with the Florida Secretary of State, he or she may request that the Sheriff's Office "levy" (or seize) this property. Once the property has been levied, the Sheriff's Office will sell it and the money received from the sale will be paid out under FS 56.27. Levy is done through the issuance of service of a Writ of Execution; it is a very technical procedure and you may wish to consult with an attorney.

The judgment creditor may apply for a Writ of Execution by filing a Motion for Writ of Execution and Writ of Execution with the with the Clerk's Office to have the Clerk issue the Writ of Execution. For additional forms, instructions and further information, contact the Sheriff of the County where the property to be levied is located. In Leon County, the Sheriff's Office provides the following information

### **Satisfaction of Judgment (FS Chapter 55)**

A satisfaction of judgment is a legal document prepared by a judgment creditor attesting to the fact that a judgment debtor has paid, and therefore satisfied, a court acknowledged debt (or judgment). It may be obtained in one of two ways:

1. Privately, by obtaining from the judgment creditor, and recording in the Official Records where judgment was rendered, a Satisfaction of Judgment; or
2. Through the Clerk of Court by submitting a Request for Judgment Payoff with a document preparation fee payable to the Clerk of the Circuit Court.

All judgments for the payment of monies rendered in the Florida courts may be satisfied at any time (prior to the actual levy of execution-garnishment or sheriff's levy) by payment of the full amount of the judgment principle plus interest and costs into the Registry of the Court where judgment was rendered. Upon payment, the clerk will execute and record in the Official Records, for a fee, a Satisfaction of Judgment, when requested by the judgment creditor. Upon the recording of the satisfaction, any lien created by the judgment is discharged.

### **USEFUL LINKS:**

#### Forms

- ✓ Civil Fact Information Sheet
- ✓ Civil Indigence Application
- ✓ Claim of Exemption
- ✓ Garnishment Motions, Writs, Information Sheets and Answers
- ✓ General Motion & Order
- ✓ Notice of Hearing
- ✓ Satisfaction of Circuit Civil Judgment
- ✓ Satisfaction of County Civil/Small Claims Judgment

#### Florida Statutes

#### Florida Rules of Procedure