



## CONSUMER RESOURCES

All laws are subject to change without notice. This information is based on Florida law only and is NOT intended to be legal advice.

## HOW TO 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 the money you are owed, you are entitled to get the sheriff to seize the judgment debtor's property. This 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 many steps you must follow in order to collect your judgment:

**STEP ONE:** Once you get your judgment, you should first get a *judgment lien* by recording a *Judgment Lien Certificate* with the Department of State. This is not absolutely necessary, but is a very good idea to do.

**STEP TWO:** In order to get the sheriff to seize (*levy*) the judgment debtor's property, you must first locate the property. Make sure you do so legally. This is your responsibility and the sheriff will not locate the property for you. There are different types of property the sheriff can seize:

- Real Property-example: land and buildings
- Personal Property-example: cars, horses, boats, furniture, and jewelry

There are also certain types of property that a sheriff **cannot** levy on, such as a person's home. *A person's homestead is exempt from execution.* The judgment debtor may also select as exempt personal property worth up to \$1,000, and one motor vehicle worth up to \$1,000. If your judgment is against a corporation or a partnership, the sheriff can seize all of its property because only people have exemptions.

**STEP THREE:** Once you have located the property that the sheriff can seize, you then can take your judgment to the *Clerk of the Court* that issued the judgment and ask for a document called a *Writ of Execution*. This writ tells the sheriff to seize the property of the judgment debtor to satisfy your judgment.

**STEP FOUR:** You then deliver the Writ of Execution to the sheriff's office in the county in which the property is located. You must also give the sheriff written instructions, called *Instructions to Sheriff*. Jacksonville Area Legal Aid is sorry it can't be of more assistance at this time. Please feel free to come again should you have other legal problems. Jacksonville Area Legal Aid wishes you the best of luck in the future.



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*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 the deposit back if the execution is successful.

**STEP FIVE:** Before the property is sold, you have to check the department of State's internet website at [www.sunbiz.org](http://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](http://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, which you provide the information contained in all the judgment lien certificates filed against the Judgment Debtor.

**STEP SIX:** 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. The highest bidder for cash in hand pays the price to the sheriff and becomes the owner of the property.

**STEP SEVEN:** The sheriff will pay out the money received from the sale in the following order:

1. The sheriff pays the sheriff's costs, and if the sale price covers these costs, you get your deposit back.
2. The sheriff pays you \$500 for your costs (whether you spent that much or not).
3. 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 is why it is such a good idea to get a Judgment Lien as soon as possible as mentioned in Step One.* 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 do not, there is always a chance that somebody might file during the execution process.

### **HOW TO GET 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 the State. You can get the proper forms at [www.sunbiz.org](http://www.sunbiz.org). You can either download the form from the website or have it mailed to you. Once you have completed the form, you can either

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file it and pay the filing fee online, or mail it to the Department with the filing fee.

**CAUTION:** The liens only last for 5 years. You should levy on the debtor's property as soon as possible. After the 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 TO GET 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 where the property is located. Such liens are not recorded with the Department of the State. The liens last for 10 years and they can be continued for another ten.

### **WRIT OF POSSESSION AND WRIT OF ASSISTANCE**

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The final process to enforce a judgment for the recovery of real property is by a Writ of Possession. The Writ of Possession is sometimes called a Writ of Assistance. The two are intended to do the same thing: to put the person entitled to the property in possession of it.

#### **Writ of Possession Procedures**

**STEP ONE:** You or your agent will need to provide the Civil Unit with the following:

- a. Original writ and two (2) copies for service
- b. Nonrefundable fee of \$70.00, in cash, money order, cashiers check or local personal check if the personal information on the face of the check matches the plaintiff's driver license or identification card; **and**
- c. A contact name and number the officer is to call with the date and time for the eviction.

**STEP TWO:** Appointments will be made on a first come, first serve basis.

**STEP THREE:** The Civil Unit clerk will provide you with a receipt for the payment of the fee and this receipt will have a Sheriff's control number.

**STEP FOUR:** The clerk will prepare the appropriate paperwork and place the Writ of Possession package in the Writ of Possession box for the Eviction Officer. Please do not ask the clerk when the officer will complete your eviction because the clerk does not know this information. The assigned officer will usually post the premises the following day or shortly

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thereafter and will schedule the eviction with you or your agent as soon as possible, taking into consideration statutory limitations and workload.

**STEP FIVE:** On the scheduled day and time of eviction, you or your agent will meet the officer at the premises and the officer will turn possession of the premises over to this person. The only responsibility the officer has is to remove persons from the premises and maintain the peace. If the officer is required to stand by, there may be additional fees required at a rate of \$42.00 per hour or any part thereof after the first hour.

**STEP SIX:** Upon delivering possession of the premises to you or your agent, the officer will provide you or your agent with a stamped true copy of the Writ of Possession with the date, time and the officer's signature. The officer will return the original Writ of Possession to the court with a Sheriff's Office Return.

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