

JUDGMENTS

Summary Claim Judgments entered in the County Court are enforceable as provided by law.

THE COURT THAT ENTERED YOUR JUDGMENT DOES NOT HAVE ANYTHING TO DO WITH IT'S COLLECTION.

You may obtain a certified copy of your judgment from the Clerk of the Court and file (record in the public records) it in the county where your judgment debtor owns real estate. If he/she owns or has an interest in real estate in more than one county, you will need to record your judgment in each county in which the defendant owns real property or has an interest in order to create a judgment lien or defect on the defendant's title.

Under the provisions of Florida Statutes 55.081 and 55.10, a judgment, order or decree becomes a lien on real estate when a certified copy is recorded in the official records or judgment lien record of the county where the property is located. 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 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. This lien period may be extended by re-recording a certified copy of the instrument within 90 days before the expiration of the lien. There is however a statute of limitation period of 20 years from the date of the entry of the judgment.

The recording of your judgment can be and often is an effective means of insuring the collection of your judgment.

In most cases, 10 days after the judgment has been entered you may obtain a writ of execution from the Clerk of the Court that entered your judgment. A writ of execution is, in effect, a court order directing the County Sheriffs of this State to seize, advertise and sell the property of the named defendant in order to satisfy the outstanding judgment. Pursuant to Section 30.231, Florida Statutes, levy instructions and a cost deposit to the Sheriff is required prior to any property being seized. The minimum cost deposit for the Marion County Sheriff is \$1,000.00.

Effective October 1, 2001, in order to insure maximum protection of your priority as a creditor, you should contact the Department of State Judgment Liens at 850-245-6039 or e-mail at www.sunbiz.org for information regarding your Execution.

The sheriff is required to observe the laws respecting the rights of all persons including the judgment debtor, at all times. The sheriff is concerned regarding:

1. Being sued for seizing the wrong property or property not owned by the judgment debtor. Therefore, you must specifically describe the property to be seized.
2. By law the sheriff is required to account for all monies received and spent. He will require that you post a deposit from which the necessary costs to seize, store, advertise, and sell the property will be deducted. The advances are considered costs for which you are entitled to

be reimbursed from the proceeds of the sale. Sometimes a judgment debtor will pay the monies due immediately after seizure. If this happens you will not need to advance any additional costs. Occasionally the sale will not realize enough monies to pay the costs and when this happens you are out the monies advanced for cost, although you may seek supplemental judgment against the defendant for these costs.

Usually the problem associated the collections of judgment is trying to discover property belonging to the debtor or property having a sufficient value to justify a levy. Then again sometimes the debtor's ownership is subject to a lien or mortgage that has priority to your judgment. If this happens then the property sold is sold subject to the mortgage or lien to the bank or other third person.

There are some ways of finding out what property your debtor owns. For example:

1. You may make inquiry to the Division of Motor Vehicles registration office to determine if any motor vehicle are registered in the debtors name. You may also write to:
Department of Highway Safety and Motor Vehicles
Division of Motor Vehicle, 107 Gaines Street
Tallahassee, FL 32304, for this information
2. You may investigate the property records in the office of the Clerk of Court in the various counties to discover what real estate, or other assets are owned by the debtor.
3. You may compel through the use of discovery depositions or other means the debtor to answer questions under oath regarding possible assets which might be subject to levy.

Property or money held by a third person such as an employer, a bank, or someone for whom he has agreed to do work may be subject to garnishment. Garnishment is a procedure whereby money or property held by a third person is required to be held by such person until the Court authorizes or directs its release. For example, if money was located in a bank account the garnishee would be directed to pay that money to you rather than the debtor.

Under Florida Law a person who is the **HEAD OF A FAMILY AND RESIDING IN FLORIDA** is entitled to certain exemptions from levy of process. Such person is entitled to the following:

1. Exemption of homestead (size can be from ½ acres in the city to up to 160 acres in the county).
2. Exemption of up to \$1,000 worth of personal property. This is the value of his interest in the property not necessarily what the property is worth. For example, if the property is worth \$3,000 but has a \$2,500 mortgage against it then the value of any exemption would be limited to \$500.
3. Exemption of his salary or wages from garnishment.

Upon the full payment of the judgment or the two parties agreeing upon a total amount of debt, and this being paid, a Satisfaction of Judgment shall be issued by the Plaintiff and recorded in the Public Records of the Court where Judgment was issued and also any counties where the Judgment was recorded.

This brief statement is not intended to give you a complete statement of the law relating to court judgments, but rather a brief overview of some of the rights a judgment creditor or debtor may have. You may well be advised to confer with an attorney.