

# **COLLECTING ON A JUDGMENT STEP-BY-STEP GUIDE**

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*If you are attempting to levy against Debtor's Real Property, follow **Steps 1 through 7***  
*If you are attempting to levy against Debtor's Personal Property, follow **Steps 3 through 7***  
*If Debtor doesn't have Real or Personal Property, but has Income or Assets, use **Option 2***  
*If Debtor's Real or Personal Property, nor Income or Assets are known, use **Part II, Option 3***

## **PART I – CERTIFY, RECORD & DOCKET**

### ***What is a final Judgment?***

The final judgment is the Judge's final decision in the case as recorded in the files stored in the Office of the Clerk of Courts.

### ***What must the final judgment contain?***

- The 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. **§55.01, Fla. Stat. (2001).**
- The final judgment should also include the address of the plaintiff.
- All writs, judgments and decrees must indicate the rate of interest at the time of the judgment. **§55.03, Fla. Stat. (2001).**

### ***What is the rate of interest on a final judgment?***

Section 55.03(1), Florida Statutes, authorizes the Comptroller, on December 1 of each year, to set the rate of interest that shall be payable on judgment and decrees for the year beginning the following January 1. Rule 3A-25, Florida Administrative Code, establishes the procedures for computing the interest rate. The interest rate for the year 2004, established pursuant to Section 55.03, Florida Statutes, is set at 7.0% per annum or .0001918 per day. The year 2003 interest rate was set at 6.0% per annum or .0001644 per day. The interest rate for 2002 was 9.0% per annum or .0002466. The interest rate established at the time a judgment is obtained shall remain the same until the judgment is paid. **§55.03, Fla. Stat. (2001).**

## **Step 1: Certify Your Judgment:**

### ***What is the first thing you need to do?***

Obtain a certified copy of your final judgment at the location where your case was heard.

***How much does a certified copy of a final judgment cost?***

The cost is \$1.00 per page for the reproduction plus \$1.00 for the certification.

**Step 2: Record the Certified Copy:**

***Why record your certified copy?***

You need to record your certified copy to receive a judgment lien on real property.  
**§55.10(1), Fla. Stat. (2001).**

***Why do you need a judgment lien?***

A valid judgment lien gives the judgment creditor the right to proceed against the property of the debtor through writ of execution, garnishment, or other judicial process.  
**§55.205, Fla. Stat. (2001).**

***What to do with the certified copy of judgment?***

Take the certified copy of your judgment to the Clerk's Office of the Circuit Court, Recording Section, 22 NW 1<sup>st</sup> Street, Miami, Florida, or 11805 S.W. 26 Street, Suite 207, Miami, Florida, and have it recorded, together with an affidavit containing the creditors address, if not on the final judgment.

***When does a judgment, order or decree become a lien?***

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. **§55.10(1), Fla. Stat. (2001).**

***How much does it cost to record the judgment?***

The cost is \$10.00 for the first page and \$8.50 for each additional page.

***What does the recorded judgment do?***

By recording your judgment, you will have a lien against any non-exempt real property in Miami-Dade County owned now or in the future by the debtor.

***Where else should you record your judgment?***

You may also record your judgment in any other county in which the debtor owns real property.

***Does recording affect the judgment debtor's credit?***

Yes, credit bureaus take this information and report it as negative history on an individual's credit report. This blemish will make it difficult for a judgment debtor to obtain a loan or mortgage. Some credit bureaus report this negative information on business credit reports.

### **Step 3: Obtain Judgment Lien:**

Effective October 1, 2001, all judgment liens must be docketed with the Department of State in order to obtain their priority, although writs of execution docketed with the Sheriff will retain their priority until October 1, 2003. *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.* **§55.208(3), Fla. Stat. (2001).**

#### ***How to acquire a lien?***

A judgment lien is acquired by filing a judgment lien certificate in accordance with [§55.203](#) with the Department of State after the judgment has become final and if no stay of the judgment or its enforcement is then in effect. **§55.202, Fla. Stat. (2001).**

#### ***When is it possible to amend a judgment lien record?***

An amendment to a judgment lien may be filed by or on behalf of the judgment creditor for: termination, partial release, or assignment of the judgment creditor's interest in a judgment lien; continuation and termination of the continuation of a judgment lien; tolling and termination of the tolling of a lapse of a judgment lien; or the correction or change of any other information provided in the judgment lien file. **§55.206(1), Fla. Stat. (2001).**

#### ***Who can file a correction of judgment lien record?***

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. **§55.207(1), Fla. Stat. (2001).**

#### ***What must the correction statement include?***

A correction statement must: (a) State name of judgment debtor and the file number; (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. **§55.207(2), Fla. Stat. (2001).**

#### ***Where are records of liens kept?***

The Florida Department of State (DOS) is given the responsibility to maintain a centralized database of judgment liens prescribed under §550.201-§55.209. **§55.201, Fla. Stat. (2001).**

#### ***Where to find a judgment lien certificate?***

The judgment lien certificate can be found on the Department of State's Internet website, at [www.sunbiz.org](http://www.sunbiz.org).

§ You have the option to either 1) Fill out the required information on-line; **OR** 2) Mail the Certificate in. To obtain the mail in Certificate once on the website, go to Obtain Filing Forms, then Download Forms, then find Judgment Lien Certificate (**JLC**). Fill out the Judgment Lien Certificate. The mailing address for the **JLC** is Department of State, Division of Corporations, Judgment Liens, P.O. Box 6250, Tallahassee, FL 32314.

- § Make sure to include the appropriate fees (see below for costs for a **JLC**).
- § The phone number is (850) 245-6039.

***What must the judgment lien certificate include?***

The requirements of a judgment lien certificate are included in **§55.203, Fla. Stat. (2001)**.

***What are the costs for a judgment lien certificate?***

Judgment Lien Certificate	\$20.00
Add for each additional debtor	\$ 5.00
Add for each attached page	\$ 5.00
Second Judgment Lien Certificate	\$20.00
Judgment Lien Amendment Statement	\$20.00
Judgment Lien Correction Statement	\$20.00
Certified Copy	\$10.00
Copies of documents produced by Sec. of State	\$ 1.00

***Who is not affected by another party's filing of judgment lien?***

- A buyer in the ordinary course of business as defined in §671.201(9) takes free of a judgment lien acquired as provided in §55.202 or §55.204 even though the buyer knows of its existence. **§55.205(2), Fla. Stat. (2001)**.
- An individual buyer of goods for personal, family, or household use who buys the good 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. **§55.205(3), Fla. Stat. (2001)**.

***How is priority determined for a judgment lien?***

The priority of a judgment lien is determined by the date (including the time of day) of filing of the certificate.

***How long is a recorded judgment good for?***

Statute of Limitations:

- o Real Property (Permanent, non-movable property, such as land and buildings)
  - § If the certified copy is first recorded 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 with the County. **§55.10(1), Fla. Stat. (2001)**.
    - This is a change from the 2000 version of §55.10, which had an initial period of 7 years.
    - If the certified copy was first recorded between July 1, 1987 and June 30, 1994, then the judgment, order or decree shall be a lien that county for an initial period of 7 years from the date of the recording.
  - § The lien may be extended for an additional 10 years by recording 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. **§55.10 (2), Fla. Stat. (2001)**.

§ However, subject to the provisions of §55.10, no judgment, order or decree of any court shall be a lien upon real...property within the state after the expiration of 20 years from the date of the entry of judgment, order or decree. **§55.081, Fla. Stat. (2001).**

- o Personal Property (Equipment, cars, collectibles, furniture, inventory, boats, etc...):

§ A judgment lien acquired for personal property becomes invalid 5 years after the date of filing the judgment lien certificate. **§55.204(1), Fla. Stat. (2001).**

§ Within 6 months before or after the expiration of the judgment lien, the judgment creditor can acquire a second judgment lien by filing a new judgment lien certificate. A new lien is not a continuation of the first lien. The second judgment lien permanently lapses and becomes invalid 5 years after its filing date, and no additional liens based on the original judgment may be acquired. **§55.204(3), Fla. Stat. (2001).**

§ For itemized property only, liens continue for an additional 90 days after the lapse of the lien. A continuation is available to the creditor only if: property is well described, the sheriff received the levy prior to the date of the lapse, and the Sheriff has jurisdiction at time of delivery. A continuation beyond those 90 days upon extraordinary circumstances. **§55.204(4), Fla. Stat. (2001).**

### ***Is it possible to revive a judgment after 20 years?***

Yes, relief previously available by scire facias now may be granted on motion after notice. Scire facias was a writ requiring the person against whom it is issued to appear and show cause why some matter of record should not be annulled or vacated, or why a dormant judgment against that person should not be revived. This writ is now adopted in **Fla.R.Civ.P. 1.100(d)**. While the rule requires notice, it does not require personal service. Better practice would require that the defendant receive actual notice of the proceeding so as in fact to allow him reasonable notice and an opportunity to be heard.

## **PART II – LOCATING ASSETS**

### **Option 1: Interrogatories in Aid of Execution:**

#### ***What are “interrogatories in aid of execution”?***

After the entry of Final Judgment, the creditor may pose to the judgment debtor a series of questions, which must be answered under oath, seeking to identify and locate assets of the judgment debtor against which to enforce the Final Judgment.

#### ***What rule governs interrogatories in aid of execution?***

Interrogatories in aid of execution follow the same format as any other interrogatories, and are governed by Florida Rule of Civil Procedure 1.340.

#### ***Hold long does the judgment debtor have to respond to interrogatories in aid of execution?***

The judgment debtor has thirty (30) days, plus five (5) additional days if mailed, to respond to the interrogatories.

***Is there a limit on the number of interrogatories?***

The interrogatories shall not exceed 30, including all subparts, unless the court permits a larger number on motion and notice and for good cause.

***What happens if the judgment debtor fails to respond to interrogatories?***

Should they fail to do so, an order compelling them to comply would be entered, and failing that, an Order of Contempt, which could result in a writ of bodily attachment commanding the Sheriff to apprehend the judgment debtor and bring him/her before the court.

**Option 2: Deposition in Aid of Execution:**

***What is a deposition in aid of execution?***

In lieu of interrogatories in aid of execution, the creditor can seek to depose the judgment debtor or its representative, if a corporation, in aid of execution. A subpoena must be served on the debtor showing the time, date, and place of the deposition. The subpoena may also require the debtor to bring to the deposition financial statements, motor vehicle titles, deeds, leases, mortgages, and records of checking and savings accounts.

***How to get information from the judgment debtor?***

Generally, a Subpoena Duces Tecum for deposition in aid of execution is served upon a representative of the judgment debtor, requiring them to appear for the taking of their deposition at a date and time certain and to bring with them certain corporate books, records and other documentation that the creditor may deem appropriate.

***When to schedule the deposition?***

Customarily, such a deposition is scheduled no less than thirty-five (35) days from the date of the notice so as to not violate time requirements of a Request for Production.

***What if the deposition shows improper transfer of assets?***

If the deposition reveals improper transfers of assets for less than adequate consideration, especially to insiders, the creditor may bring an action against the recipients of those assets to recover those assets or their value for the benefit of creditors.

**Option 3: Hearing In Aid of Execution and “Fact Information Sheet”:**

If you do not know the employer(s) or bank(s) of the defendant(s), and if you do not know the location of any property that might be subject to a writ of execution, you may file a motion with the Clerk’s Office for a hearing in aid of execution.

***When is a hearing in aid of execution available?***

This procedure is only available to you in a small claims action and 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. **Fla.Sm.Cl.R. Rule 7.221(b) (2001).**

***When can a party request a hearing in aid of execution?***

This written request for the court to schedule a hearing in aid of execution can be done thirty (30) days after the date of your judgment.

***What is required for a hearing in aid of execution?***

The judge will then enter an order for the hearing and the defendant(s) will be served with the order and a “Fact Information Sheet.” 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 [The Fact Information Sheet] within 30 days of the order or other such reasonable time determined by the court. **Fla.Sm.Cl.R. Rule 7.221(a) (2001).**

***What happens at the hearing in aid of execution?***

The purpose of the hearing is 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. **Fla.Sm.Cl.R. Rule 7.221(b) (2001).**

***What happens if the debtor does not appear for the hearing?***

If the defendant fails to appear, the court may hold him/her in contempt of court pursuant to Fla. R. Civ. P. Form 1.982. **Fla.Sm.Cl.R. Rule 7.221(a) (2001).** If the debtor fails to comply with contempt order, court may issue a writ of bodily attachment, commanding the sheriff to apprehend the defendant and bring him/her before the court.

## **PART III – RESOURCES FOR COLLECTING ON A JUDGMENT**

### **Option 1: Writ of Execution**

#### **Step 4: Fundamentals of Writ of Execution:**

***What is a writ of execution?***

The writ of execution tells the sheriff to seize property of the judgment debtor to satisfy your judgment.

***What is the duty of the sheriff regarding writs?***

It is the duty of a sheriff to levy on specific property whenever a writ, issuing out of any court of the state, is delivered to the sheriff, commanding him to levy on property specifically described in the writ. **§30.30(1), Fla. Stat. (2001).**



***When to get the writ of execution?***

Ten (10) days after the court has entered the judgment, the Clerk will issue a writ of execution upon your request. *However, if the debtor files a timely motion for a new trial, you must wait until the court rules on the motion before you can obtain a writ of execution.*

***Where to deliver the writ of execution?***

You then deliver the writ to the Sheriff's office in the county in which the property is located.

***What document accompany the writ of execution?***

The writ of execution is only effective if you obtain an "Instructions for Levy" form from the Sheriff's Office and complete it, giving a description and location of personal property owned by the debtor.

***Are there any costs to file the writ of execution?***

The Sheriff will require you to deposit money to pay the Sheriff's fees and costs, see Part III, Step 6. You will get your deposit back if the execution is successful or if levy is not made.

***How much of the judgment debtors assets will be levied?***

Since the Sheriff's office generally anticipates that a forced sale of assets brings approximately ten percent (10%) of their value, the Sheriff's office will customarily levy upon assets having a value of approximately ten times the amount of the outstanding writ of execution, if such assets are available.

***Are there any property assets that cannot be levied?***

All liens on real property are subject to the exemptions granted by Florida Statute and the Florida Constitution as they apply to homestead.

**Step 5: Check for Conflicting Liens:**

Before the property can be sold, you have to check the Department of State's Internet website.

***How to check for conflicting liens?***

Go to [www.sunbiz.org](http://www.sunbiz.org), to see if there are any judgment liens filed under the name of the judgment Debtor.

***What else must you check for?***

You must also check if creditors who have filed UCC security interests in the name of the judgment debtor.

***What to do after checking for conflicts?***

- You then give the Sheriff a signed affidavit, on which you list the names, addresses, and filing dates of everyone who has filed a judgment lien or UCC security interest.
- You must also notify all of these people of the time and place of the sale.

### **Step 6: Sheriff Requirements Before Levy is Attempted:**

1. Creditor's Affidavit/Sheriff's Certification for any writs (*if docketed before 10/01/2001*).
2. An original Writ of Execution.
3. The Levy Instructions specifically describing property to be levied upon by the Sheriff.
4. Cost deposit
  - a. For Real Property/Automobiles:
    - 1) \$500 levy deposit bond;
    - 2) \$110 Sheriff's fee
    - 3) Other fees may be required at Sheriff's Office
  - b. For Personal Property:
    - 1) \$110 Sheriff's Fee;
    - 2) Other fees may be required at Sheriff's Office

*However, if debtor doesn't satisfy judgment and levy is required, a \$500 levy deposit is then required to levy on personal property.*

### **Step 7: Appropriate Notice:**

#### ***What happens after assets are levied?***

Once the assets are levied upon, they are removed by a trucking company of the Sheriff's choosing and placed in a bonded warehouse, for a period of approximately thirty (30) days, during which time the Sheriff's sale is scheduled and appropriate notice is given.

#### ***Who is responsible for giving notice?***

Plaintiff/Plaintiff's attorney is now responsible for the certified mailing with notice to defendant/debtor, or defendant/debtor's attorney, of the notice of Sheriff's levy, notice of Sheriff's Sale and affidavit of prior judgment liens prior to the FIRST day of Advertisement of Notice of Sheriff's Sale. **§56.21, Fla. Stat. (2001).**

#### ***What constitutes proper notice?***

Once the notices have been sent, notice of an execution sale is to be given by advertisement once each week for four successive weeks in a newspaper published in the county in which the sale is to take place. **§56.21, Fla. Stat. (2001).**

#### ***How is the auction conducted?***

- At the designated time and place (140 West Flagler Street, 8<sup>th</sup> Floor, Miami, Florida), the sheriff will sell the property at a public auction.
- The highest bidder for cash in hand pays the price to the sheriff and becomes the owner of the property.

## Payment Schedule:

### *The Sheriff will pay out the money received from the sale in this order:*

1. The Sheriff pays the Sheriff's costs, and if the sale price covers these costs, you will get your deposit back.
2. The Sheriff pays plaintiff \$500 for your costs (whether you spent that much or not).
3. The holder of the judgment lien with the earliest filed effective date.

If the Sheriff runs out of money before getting to you, you get nothing more. This is why it is a good idea to obtain a judgment lien as soon as possible.

**§56.27, Fla. Stat. (2001).**

### *Can there be excessive levying?*

The value of the property levied on is only considered excessive if the property unreasonably exceeds the total debt of all unsatisfied judgment liens. **§56.27, Fla. Stat. (2001).**

**\* \* IMPORTANT:** If you have 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. **\* \***

## Option 2: Writ of Garnishment:

### *What is a writ of garnishment?*

If you find that there is no real or personal property which the sheriff may seize through a writ of execution, but you know of a third person who may owe the debtor money or a bank account in the debtor's name or any other person who has in his/her possession any of the defendant's personal property, you may secure a writ of garnishment with the Clerk.

### *How to get a writ of garnishment?*

To secure the writ of garnishment, deposit \$100.00 with the Clerk of the Court, plus an additional \$35.00 filing fee plus a \$2.00 court fee for the first garnishment proceeding.

### *When can the judgment creditor get a writ of garnishment?*

Ten (10) days after the entry of the Final Judgment, the judgment creditor may file a Motion for Writ of Garnishment.

### *What statutes deal with writs of garnishment?*

Chapter 77, Florida Statutes, details all of the requirements for a writ of garnishment.

### *What will the clerk do after the writ is filed?*

The clerk shall also give a copy of the "Notice to Plaintiff/Plaintiff's Counsel) when the writ is filed.

***How does the writ of garnishment get served?***

The Sheriff will then serve the writ of garnishment on the third person requiring disclosure of money owed to the debtor and any of the debtor's property in the possession or control of the third person.

***When does the writ of garnishment become a lien?***

The writ of garnishment creates a lien as of the time of service of the writ or at any time between service and the garnishee's answer, in any property of the debtor in garnishee's possession or control. **§77.06(1), Fla. Stat. (2001).**

***What does a writ of garnishment require the garnishee to do?***

The writ shall require the garnishee to serve an answer to it on plaintiff within 20 days after service stating whether he or she is indebted to 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; and 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.

**Step 1: Procedure Between Judgment Creditor and Judgment Debtor**

***When must the judgment creditor give notice to the judgment debtor?***

Plaintiff/Plaintiff's attorney must provide notice to defendant within five (5) business days after writ is issued or three (3) business days after writ is served, whichever is later. **§77.041 Fla. Stat. (2001).**

***Who has the right to 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 matter 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. **§77.01 Fla. Stat. (2001).**

***What must the notice to judgment debtor contain?***

That notice must provide a copy of the writ of garnishment, motion for writ of garnishment, as well as the notice of exceptions to which the judgment debtor may be entitled. **§77.041 Fla. Stat. (2001).**

***What happens when the defendant receives the notice?***

Defendant has twenty (20) days from the receipt of the notice to file the "Claim of Exemption and Request for hearing" form with the clerk. The defendant must also mail or hand-deliver a copy of the claim form to the plaintiff and the garnishee. **§77.041 Fla. Stat. (2001).**

***What happens if insufficient or incomplete notice is given?***

Failure to give the appropriate notice will render the Garnishment void.

***When is second notice required?***

Within 5 days after service of the garnishee's answer on the plaintiff or after the 20 day 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 receipt 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. **§77.055 Fla. Stat. (2001).**

***What can the judgment debtor do after receiving notice?***

The judgment debtor then has 20 days from the date of the notice to file a motion to dissolve the writ or assert any defenses that they may have. **§77.055 Fla. Stat. (2001).**

***What happens if the judgment debtor claims an exception?***

The plaintiff has two (2) business days from receipt by hand delivery or seven (7) business days from receipt by mail delivery to file an objection to the claim of exception. If an objection is filed, the plaintiff must also request a hearing. **§77.041 Fla. Stat. (2001).**

***What happens if the garnishee hasn't filed a motion to dissolve the garnishment?***

If the garnishee fails to answer as required, a default shall be entered against him or her. On the entry of the judgment for plaintiff, a final judgment shall be entered against the garnishee for the amount of plaintiff's claim with interest and costs. **§77.081 Fla. Stat. (2001).**

***When does the writ become effective?***

The writ creates a lien upon the debt or property garnished at the time of service of the writ at the time the same comes into the garnishee's possession or control. **§77.06 Fla. Stat. (2001).**

***What is a continuing writ of garnishment?***

In some cases, a continuing writ of garnishment is available, however, this is generally applicable in circumstances where a judgment debtor is gainfully employed and is receiving a salary on a regular basis. **§77.0305 Fla. Stat. (2001).**

***What is the difference between regular garnishment and continuing garnishment?***

These procedures vary somewhat from the one time garnishment in that the Order entered by the presiding Judge directs the garnishee to deduct that portion of the judgment debtor's salary permitted by Federal and State law, and remit it, on a weekly, Bi-weekly or monthly basis to the garnishment creditor.

**Step 2: Procedure Between Judgment Creditor and Third-Party**

***What must a third-Party do after receiving notice?***

The third person is ordered to hold the money or property until a hearing is held.

***What happens after garnishment is approved?***

- Unless the debtor is entitled to an exemption (see below), the third person may be ordered to pay the money to the plaintiff or give the property to the Sheriff for execution to satisfy the judgment.
- Once the judgment has been entered, most banks and other such institutions forward payment promptly, although should they fail to do so, the judgment against the garnishee is enforceable as any other judgment.

**Step 3: Exemptions Available to the Judgment Debtor:**

***Are there any exemptions for the judgment debtor?***

There are certain exemptions available to the debtor who is the head of a family which is dependent upon such a person for support. These include:

1. One-half acre within the city limits or 160 acres of land in unincorporated areas on which such head of the family resides with one or more members of the family;
2. Personal property, not in excess of a value of \$1,000.00;
3. Salaries, wages and commissions earned by personal services of such “head of family.”

***Is there a limit to garnishment of earnings?***

In addition, you cannot require the withholding for payment of any debt of more than 25% of an individual’s disposable earnings (whether head of the family or not).

Disposable earnings means that part of the earnings remaining after deduction of any amounts required by law to be withheld for any work week or the amount of such disposable earnings exceeding 30 times minimum hourly wage as prescribed by federal law. See §222.11, Fla. Stat. (2001) for complete list of exceptions.

***How does a person claim an exemption on personal property?***

When a levy is made by **writ of execution**, upon personal property which is allowed by law to be exempt from levy and sale, the debtor may claim the personal property to be exempt from sale by making an inventory of his personal property, within 15 days after the date of levy. The inventory must show the fair market value of the property listed and must have an affidavit attached certifying that the inventory contains a correct list of all personal property owned by him in the state, and that the value shown is the fair market value of the property. The debtor must designate the property listed in the schedule which he claims to be exempt from levy and sale. **§222.061(1) Fla. Stat. (2001).**

***What must the debtor do with the inventory?***

The debtor must file the original inventory and affidavit with the court which issued the writ, and must promptly serve one copy, by mail or hand delivery, on the judgment creditor and furnish one copy to the sheriff who executed the writ. **§222.061(2) Fla. Stat. (2001).**