



## **EXECUTION LEVY CREDITOR'S AFFIDAVIT**

Effective July 1, 2009 the **Creditor's Affidavit** is required by statute for both personal property and real property levies. Please review the 2009 additions to F.S. 56.21 and 56.27 **to ensure that all expanded information now required is contained in your Creditor's Affidavit.**

Personal Property levy priority is established by the filing of the Judgment Lien Certificate with the Florida Department of State data base in Tallahassee. You **MUST** do a lien search of that data base in the preparation of the Creditor's Affidavit. Section 56.27(4)(a), Florida Statutes: *For a personal property levy, an attestation by the levying creditor or the creditor's attorney of record that he or she has reviewed the database or judgment lien records established in accordance with F.S. 55.201 - 55.209 and that the information contained in the affidavit based on that review is true and correct.*

Real property levy priority is established by the filing of a certified copy of the Final Judgment with the Clerk of the Court where the real property is situated. A title search is now required before the preparation of the Creditor's Affidavit. Section 56.27(4)(a), Florida Statutes: *For real property levy in accordance with F.S. 55.10(1) and (2), an attestation by the levying creditor or his or her attorney of record that he or she has reviewed the records of the Clerk of the Court of the county where the property is situated, or that he or she has performed or reviewed a title search, and that the information contained in the affidavit, including a disclosure of all judgment liens, mortgages, financing statements, tax warrants and other liens against the real property, based on that review of title search is true and correct.*

Section 56.27(4)(b), Florida Statutes directs the information required in the Creditor's Affidavit for both personal and real property levies. *The information required under F.S. 55.203(1) and (2) for each Judgment Lien Certificate indexed under the name of the judgment debtor as to each judgment creditor; the file number assigned to the record of the original and, if any, the second judgment lien; and the date of filing for each judgment lien certificate under s. 55.202 or s. 55.204(3). For each judgment lien recorded on real property, the information contained in the certified copy of recordation of lien under s. 55.10(1) and (2), and for each other lien recorded on real property, the name and address of the lien holder as shown in the copy of the recorded lien established by the title search.*

Section 56.27(4)(c), Florida Statutes: *A statement that the levying creditor either does not have any other levy in process, or, if another levy is in process, the levying creditor believes in good faith that the total value of the property under execution does not exceed the amount of outstanding judgments.*

The Sheriff will follow the Creditor's Affidavit and the statute in paying lien holders when there is a surplus of money after the payment of the Sheriff for costs and the \$500.00 liquidation fee. **The Sheriff will not be liable for any wrongful payment of monies when following the Creditor's Affidavit.**