

PALM BEACH COUNTY SHERIFF'S OFFICE

GENERAL INSTRUCTIONS FOR LEVY

How do I 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/defendant, and you are called the judgment creditor/plaintiff.

If the judgment debtor does not pay, you are entitled to have the Sheriff seize the judgment debtor's property. The seizing of property by the Sheriff is called a levy. Once the Sheriff has levied on the property, the Sheriff will then advertise and sell it, and pay you out of the money the Sheriff receives from the sale IF the sale brings enough money to pay all concerned. This process is called an execution. There are a number of steps you must take.

STEP 1: Once you get your judgment, there are two things you should do. First, obtain a judgment lien by recording a Judgment Lien Certificate with the Department of State, which establishes priority of lien on the judgment debtor/defendant's personal property. These liens lapse, meaning they are removed after 5 years. After 5 years, you can file again (one time only) for a second Judgment Lien Certificate. Next, you should obtain a certified copy of your final judgment for recording with the Clerk of the Court in the county where the real property is located. These liens last for 10 years and they can be continued for another 10 years.

STEP 2: In order to have the Sheriff levy upon (seize) the judgment debtor's property, you must first locate the property. The Sheriff will not do this for you. Remember that there are many kinds of property the Sheriff can seize on your behalf. Land and buildings are called real property. Movable things, like cars, boats, furniture and jewelry are called personal property. You may contact a variety of sources of information regarding the judgment debtor's assets, such as the Department of Motor Vehicles, the County Tax Collector's Office, the Palm Beach County Courthouse, or your own personal knowledge.

STEP 3: Once you have located the property, you take a copy of your judgment to the Clerk of the Court that issued the judgment and ask for a document called a Writ of Execution. This writ directs the Sheriff to seize property of the judgment debtor/defendant, which is subject to levy under your Writ of Execution. You then deliver the original writ to the Sheriff's Office accompanied by the following documents: a copy of the signed Final Judgment, a certified copy of your State of Florida Judgment Lien Certificate, an Affidavit of Judgment Lien Priority {F.S. 56.27(4)} (see STEP 4), and specific Levy Instructions. Also required is a cost deposit to pay the statutory Sheriff's fees and costs of the levy, such as Sheriff's fees, towing & storage fees, advertising fees, recording fees, etc. You will get your deposit back if the defendant pays their obligation as costs will be included in the payment, or if the execution is successful and the Sheriff's sale brings enough proceeds to reimburse all costs. You are responsible for all costs of the levy and sale if the Sheriff's sale does not bring sufficient money to cover the costs. After the costs have been paid, your remaining deposit will be returned to you. Consequently, it is to your advantage to be present at the sale to protect your interests.

STEP 4: On personal property levies, before the property can be sold, you have to check the Department of State's internet website at 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. You then give the Sheriff, pursuant to Chapters 55 and 56 of the Florida Statutes, a signed and notarized Affidavit in which you list the names, addresses, and filing dates of everyone who has filed a judgment lien or UCC security interest, or other lien. Although you are required to check for UCC security interest on record, the Sheriff does not pay UCC security interest from the proceeds of the sale.

On real property levies, you have to review the recordation records of the Clerk of the Court for Palm Beach County, Florida or perform a current title search to see if there are any liens against the real property. You then give the Sheriff, pursuant to Chapters 55 and 56 of the Florida Statutes, a signed and notarized Affidavit in which you list the names, addresses, and recording dates of everyone who has a lien against the property. You must also provide to the Sheriff a signed and notarized Affidavit stating that you have found no claim by the judgment debtor exempting the described real property from forced sale pursuant to F.S. 222.01.

STEP 5: The Sheriff will notify all of the parties listed in the Affidavit of the time and place of the sale by certified mail sent prior to the first date of publication. Once the notices have been sent, the Sheriff will advertise the sale once each week for 4 successive weeks in a newspaper published in Palm Beach County. At the designated time and place, the Sheriff will sell the property at a public Sheriff's sale auction. The highest bidder for cash in hand pays the amount of their bid to the Sheriff and becomes the owner of the property advertised and sold at Sheriff's sale subject to taxes, prior recorded liens, and any other encumbrances that have been properly recorded against the property.

STEP 6: The Sheriff will pay out the money received from the sale in this order: (1) the Sheriff pays the Sheriff's fees and costs of the levy and sale. If the sale brings in enough money to pay all costs, you will get your entire cost deposit back; (2) the Sheriff pays you, the levying judgment creditor, \$500.00 liquidation expenses pursuant to Florida law (whether you spent that much or not); (3) the Sheriff pays any priority lienholder(s) who have obtained a judgment lien before you as provided in your Affidavit. If the Sheriff runs out of money before getting to you, you get nothing more. If there are no other judgment lienholders, the Sheriff will pay you first to satisfy your judgment and anything left over will go back to the defendant.

NOTE: Effective October 1, 2001, the Sheriff no longer docket and indexes Writs of Executions. Please refer to the Florida Department of State's website, www.sunbiz.org for further information. The execution is presented to the Sheriff at the time the levy is requested. After the levy and sale or payment of the Writ of Execution by the judgment debtor, the Sheriff will make his return to the Clerk of Court of issuance. It is the responsibility of the judgment creditor/plaintiff to update the database of the Department of State with an Amended Judgment Lien Certificate. The Sheriff's documents will be sent to the Clerk of Court of issuance to keep the case file current.

ALL DOCUMENTS AND FORMS RELATING TO THE LEVY MUST BE TYPED.
NO HAND WRITTEN PAPERWORK WILL BE ACCEPTED.

All Levy Instructions must be accompanied by a Cost Deposit, Original Writ of Execution, Certified Copy of Judgment Lien Certificate, Affidavit of Priority and other appropriate documents as listed below. Also listed below are the **minimum** cost deposits, which must be collected in advance before the Sheriff can proceed with the levy. These Cost Deposits are an estimate of the costs (Sheriff's fees, towing & storage fees, advertising fees, recording fees, etc.) involved with a levy and sale. Should the actual costs incurred be greater than the Cost Deposit on hand the party directing the levy will be responsible for any additional charges.

<u>TYPE OF PROPERTY</u>	<u>ESTIMATED COST DEPOSIT</u>	<u>LEVY INSTRUCTIONS MUST INCLUDE THE FOLLOWING INFORMATION & DOCUMENTATION:</u>
AUTOMOBILE	\$3,000.00	<p>All vehicle levies must be accompanied by a DMV printout listing Make, Model, VIN number, Title number, Tag number, and Lien holder information as verified in writing from the Dept. of Motor Vehicles (this printout can be obtained by writing to the Dept. of Motor Vehicles, Neil Kirkman Bldg., Tallahassee, FL 32301).</p> <p>The name(s) on the printout must match those on the Writ of Execution & Judgment Lien Certificate EXACTLY. If they do not, you must furnish an Affidavit of Same Name, stating the reason(s) you believe that they are one in the same person, with documentation supporting your belief attached.</p> <p>Specific Description of Property; Specific Location of Property and Balance due on Judgment (DO NOT include accrued interest)</p>
REAL ESTATE	\$1,000.00	<p>Complete Legal description of property; Copy of the last known Deed; Common address or geographical location and Balance due on the Judgment (DO NOT include accrued interest).</p>

A Certified Copy of the Final Judgment must be recorded in the Official Records of Palm Beach County.

STOCK CERTIFICATES	\$1,000.00	Must list the name of the Corporation in which the Stocks are issued.
PERSONAL JEWELRY	Call for Estimate (561) 355-6301	Must list all items to be seized along with a complete description of same.
AIRPLANE BOAT BUSINESS INVENTORY HOUSEHOLD ITEMS ETC.	Call for Estimate (561) 355-6301	Specific item(s) must be listed in as much detail as possible; Specific location of property; Balance due on the Final Judgment; Cost deposits on these types of items are determined on an individual basis based upon your particular circumstances.

- ** Pursuant to F.S. 30.30, the balance due on your Writ of Execution must be stated on the Instructions for Levy form submitted to the Sheriff. (**DO NOT compute the interest or add any additional costs not awarded by the Court**).
- ** A signed copy of the Final Judgment is to accompany the Instructions for Levy on both Real and Personal Property levies.
- ** The exact common address or geographical location of the property MUST be submitted when levying upon Real Estate.

The following is a summary of the individual Sheriff's Fees which will be deducted from the total cost deposit as each step is taken: \$40.00 Processing fee; \$50.00 Levy fee; \$40.00 fee to prepare the advertisement; \$40.00 fee for holding the Sheriff's Sale; \$40.00 fee to prepare the Sheriff's Bill of Sale or Sheriff's Deed; **plus** all actual Costs generated by your levy.

SUMMARY

Property held in the name of a man and his wife is not subject to levy when the judgment is against only one of the individuals.

All property, either real or personal, levied upon is sold subject to all prior liens and encumbrances and this fact will be announced at the time of sale as well as being included in the published notice.

Florida Statutes require that the Sheriff obtain a cost deposit in advance to cover all costs in connection with the processing of an Execution and Levy Instructions.

Writs of Execution and Judgment Lien Certificates are satisfied in the order determined by the Creditor's Affidavit. Prior Writs/Certificates will be satisfied first before any money collected will be paid to a Junior Writ/Certificate even when the junior judgment holder described the property on which to levy and furnished the prescribed cost deposit.

After levy, the property is held by the Sheriff, advertised and sold at Public Auction to the highest CASH BIDDER FOR CASH IN HAND. The moneys received are applied to the costs and judgments as listed in the Creditor's Affidavit.

Priority in a real estate sale is established when a Certified Copy of the Final Judgment is recorded with the Clerk of the Circuit Court.

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PALM BEACH COUNTY SHERIFF'S OFFICE
COURT SERVICES BUREAU
ENFORCEABLE WRITS SECTION
P.O. BOX 24681
WEST PALM BEACH, FL 33416-4681
(561) 355-2763