

How to Collect a Judgment in Florida

JUDGMENT LIENS

Definitions

- **Judgment Debtor:** The losing party (the party that is ordered to pay a monetary amount by the court).
- **Judgment Creditor:** The winning party (the party that is awarded a monetary amount by the court).
- **Levy:** The process of seizing a judgment debtor's property to pay the judgment debt.
 - In Florida, the sheriff's department levies the property.
 - The sheriff's department sells the levied property in order to pay the creditor.
- **Execution:** The process of selling the seized property and paying the creditor.

I was awarded a court ordered judgment. Can I file a judgment lien with the Department of State?

- Yes, Florida law allows a creditor to file a Judgment Lien Certificate with the Department of State.
- The filing is not required, but it can be an important factor in recovering your debt.
 - Florida law requires the sheriff's department to pay all judgment creditors based on the order their judgment liens were filed.
 - If someone else filed their judgment before you filed yours, the sheriff's department must pay them before they pay you.

What types of property can and cannot be levied by the sheriff?

- The sheriff's department **can** seize:
 - **Personal property:** movable things (e.g., cars, horses, boats, furniture, jewelry) owned by the debtor.
 - **Real property:** land and buildings owned by the debtor.
 - **Exemptions:** An individual may choose to exempt one motor vehicle worth \$1,000 or less; and one additional personal property item worth \$1,000 or less. Corporations and partnerships do not have any exemptions.
- The sheriff's department **cannot** seize:
 - An individual's home or homestead.
 - Any property that is leased or rented by the judgment debtor.

How do I get the sheriff to levy personal property?

1. Locate the property.
 - The property must be located in Florida.
 - The sheriff's department will not locate the property for you.
2. Return to the Clerk of the Court that originally issued your judgment and ask for a *Writ of Execution*.
3. Deliver the *Writ* to the sheriff's department for the county where the debtor's property is located.
4. Provide the sheriff's department with:
 - A deposit to cover their fees and costs.
 - Your written *Instructions for Levy*:
 - Describing the property; and
 - Telling the sheriff's office where the property is located.

What happens once the personal property is levied?

- The sheriff's department will sell the property at a public auction.
 - The property will be sold to the highest bidder for *cash in hand*.
 - You may bid on the property.
- For the sheriff's department to sell the property, you must:
 - **Search the Florida Department of State by the judgment debtor's name** for other judgment liens filed under that name.
 - **Search the Florida Department of State UCC records by the judgment debtor's name** for creditors that have filed UCC security interests under that name.
 - Notify all creditors found (if any) of the date, time and place of the sale.
 - Provide the sheriff's department with a signed affidavit containing the information you found in your search for any judgment lien certificates against the debtor.
 - Advertise the sale in a local newspaper once all notices have been sent.

If the levied personal property is sold, how is the money distributed?

The sheriff's department will distribute the money in the following order:

1. The sheriff's department will deduct their costs.
 - If the property sale covers those costs, you will get your deposit back.
2. The sheriff pays you \$500 for your costs, regardless of the amount you actually spent.
3. If anyone else obtained a judgment lien against the debtor, the sheriff's office will pay all of the creditors in the order their judgment liens were filed.
 - If the sheriff's department disburses all of the money before getting to you, you will not receive any payment.

- If there are no other judgment liens against the debtor, you will be paid first.
- Remaining funds will be returned to the debtor.

How long is a judgment lien valid?

- A judgment lien is valid for 5 years.
- Florida law allows you to file a second judgment lien to extend the lien for an additional 5 years.

How do I get a judgment lien on the debtor's real property?

File a certified copy of your judgment in the real estate records of the county in which the property is located.

- The lien is in effect for 10 years, and it can be renewed for an additional ten years.
- This type of lien is not filed with the Department of State.

For more information, please visit www.dos.myflorida.com/sunbiz.