

EXECUTION AND LEVY – CHAPTERS 30, 55 AND 56

Effective October 1, 2001, Sheriffs of the State of Florida no longer docket and index Writs of Execution. However a Writ of Execution is still required for a Sheriff's Levy.

Writs of execution issued from the Clerk of Court on judgments entered October 1, 2001, and after must follow the procedure set out in F.S. 55.203 and file their Judgment Lien with the Department of State web site www.sunbiz.org.

When instructing the Sheriff to levy upon personal property, our office will require a certified copy of Judgment Lien Certificate, original Writ of Execution, original Instructions for Levy, sufficient cost deposit and Levying Creditor's Affidavit pursuant to F.S. 56.27(4). If levying on real property, a certified copy of the filing of the judgment lien pursuant to F.S. 55.10, certified copy of Deed, original Writ of Execution, original Instructions for Levy and sufficient cost deposit.

The moving/levying creditor is obligated to determine what items are to be levied upon and should review F.S. to determine whether levy may be made as to certain personal property. You may consult the Department of Motor Vehicles to inquire if debtor owns a vehicle and how it's titled. Be sure to obtain the correct vehicle identification number. The Property Appraiser will advise if debtor owns any Real Estate and how the property is assessed. Be sure to obtain the correct legal description and address.

In order to instruct the Sheriff to levy, you must submit the levy instructions describing specific property and address where property is to be located (along with execution and the proper certificates). A separate deposit is required to cover expenses such as wrecker service, storage, packing and hauling, advertisement and other Sheriff's costs. Below are estimated MINIMUM levy deposits required for the cost of levying property through the sale:

Automobile \$1600.00	Business Levy \$10,000.00	Household Goods 10,000.00
Stock Certificate \$500.00	Real Estate \$600.00	Mobile Home \$500.00

These expenses are charged as costs and when possible, are reimbursable from the proceeds of the sale of levied merchandise, or in the event the defendant should pay the amount of judgment, the above levy deposit will be refunded. There may be instances where the property sold does not bring sufficient money to cover costs, in which event the levy deposit will be used. Consequently, it is to the advantage of the moving/levying creditor to be present at the sale to protect his interest. Also, the moving/levying creditor should determine whether there are any liens recorded against the property to be levied upon. The Sheriff is ONLY selling the debtor's right, title and interest to the levied property, subject to ALL liens, taxes, encumbrances and judgments. In the event the levy is cancelled, i.e. BANKRUPTCY, the costs incurred are the responsibility of the levying creditor.

After levy, the property is held by the Sheriff, advertised and sold at public auction to the highest cash bidder.

The Sheriff's Office will schedule and handle the Notice of Sheriff's Sale in the newspaper specified on the Instructions for Levy and will be responsible for the "certified mailing" of the Sheriff's sale to the judgment debtor/attorney and when levying on personal property the Sheriff shall provide the Notice of Levy and Execution Sale and a copy of the Levying Creditor's 56.27(4) Affidavit to all other judgment creditor(s) or their attorneys of record and all secured creditors (UCC security interest; www.FloridaUCC.com). Such notice is to be made by certified mail pursuant to F.S. 56.21.

When levying on real property the sheriff shall provide a Notice of Levy & Execution Sale to the property owner of record by certified mail.

Pursuant to F.S. 56.27 the proceeds from the Sheriff's Sale will be paid as follows: (1) Sheriff's cost for levy and sale, (2) first \$500.00 for liquidation costs to the moving/levying creditor, (3) if levy is on real property, the first priority lien holder under F.S. 55.10 and if a levy is on personal property, the first priority lien holder under F.S. 55.202, 55-204 or 55.208.

Please understand that the SHERIFF'S OFFICE EMPLOYEES CANNOT PRACTICE LAW OR GIVE YOU LEGAL ADVICE. They can only point out the existence of certain procedures and how to follow them. Demands for the money from the defendant are not made by the Sheriff's Office in this county.

The Florida Constitution and/or statutes provide that certain property of a debtor may be exempted from forced sale. These exemptions include the real estate, which is the residence of a debtor as well as \$1000.00 of personal property.

*In consideration of the unknown expenses which could be incurred in connection with a business levy or household items levy, any deposit deficiency will be due on day of the levy or next business day.

PINELLAS COUNTY SHERIFF'S OFFICE
10750 Ulmerton Road/P.O. Drawer 2500
Largo, Florida 33779-2500
Ph. (727) 582-6240

Form #691-066-0174
(Rev. 5/2/08)

AFFIDAVIT OF LEVYING CREDITOR'S REVIEW OF THE
DEPARTMENT OF STATE'S DATABASE

56.27(4)

STATE OF FLORIDA)
) ss.
COUNTY OF PINELLAS)

BEFORE ME this day personally appeared _____,
who, being duly sworn, deposes and says:

1. Under penalty of perjury, I certify that on the ____ day of _____, 200____, I reviewed the Department of State's database and the information contained in this Affidavit is true and correct.

2. Your Affiant's review of the Department of State's database revealed that other than the judgment lien certificate(s) which is/are the subject of this pending action, there are _____ judgment lien certificate(s) indexed under the name of the Judgment Debtor _____, (including any second judgment liens, if any).

3. Your Affiant has attached a copy of each judgment lien certificate to this Affidavit which contains the file number assigned by the Department of State and the date of filing.

4. Your Affiant, as the levying creditor:

- Does not have any other levy in process.
- Does have another levy in process but believes in good faith that the total value of the property under execution does not exceed the amount of outstanding judgment.

5. The foregoing statements are based on my personal knowledge and belief.

FURTHER AFFIANT SAITH NAUGHT.

Subscribed and sworn to before me this ____ day of _____, 200____, who is personally known to me or who has produced _____ as identification.

Signature

Notary Public
Title

Type, Print, Stamp Name

Commission No.

My commission expires:

