

IF YOU HAVE ANY QUESTIONS, PLEASE FEEL FREE TO EMAIL:

Carla A. Buckley at cbuckley@hcsso.tampa.fl.us or,

Sandra Colelli at scolelli@hcsso.tampa.fl.us

Hillsborough County Sheriff Court Process Section

Information On Levy Procedures

This information package is designed as a **COURTESY** from
Hillsborough County Sheriff Office
Court Process Section

Hillsborough County Sheriff's employees cannot give legal advice or practice law.

On October 1, 2001 new laws were implemented by the State of Florida. Sheriff's Office no longer docket Writs of Execution. However, Writs of Execution are required for a sheriff's levy. The Writ of Execution can be obtained at the Clerk of the Court.

What Is a Levy

Resulting from a court decision, you have been granted a judgment. In order to attempt to satisfy this judgment, the court has to issue a Writ of Execution. All Writs of Execution issued from the Clerk of the Court on and after October 1, 2001 must follow the new Florida State Law which is to record your Judgment Lien with the Department of State.

**FORMS CAN BE OBTAINED BY ATTORNEYS AND LAYMEN ONLY
THROUGH THE FOLLOWING WEBSITE: www.sunbiz.org.**

Forms will not be mailed by or obtained from the Department of State. The forms can be downloaded only from the website.

You must also check for creditors who have filed UCC Security interests in the name of the judgment debtor at www.FloridaUCC.com.

The necessary forms which are required for the levy procedure instructs the Sheriff to seize, advertise and sell to the highest bidder **personal property or real property** of the defendant. This procedure is called a "Levy". The Levy procedure is implemented and executed in order to try to satisfy a judgment due to you from the defendant.

It is **your responsibility** to determine what item(s) the Sheriff will attempt to levy based upon per your instruction to levy.

The Sheriff Office **will not do any research** for you.

All Sheriff's Sales are **subject** to all liens and encumbrances.

-Required Forms for the Levy Procedure **(Originals or Certified Originals)**

Pursuant to the changes in Chapters 55 and 56, in the Florida Statutes, the following are requirements that must be met before the sheriff can levy on personal or real property. It is the responsibility of the levying creditor/moving writ (you) to supply these forms to the sheriff. IF PACKAGE IS NOT COMPLETE, IT WILL BE RETURNED TO YOU.

Original Writ of Execution

Executions can be obtained at the Clerk's office. Only one execution may be issued and then sent to the appropriate county sheriff for levy. It must be the original execution, signed and sealed by the Clerk of the Court.

1. **Original Instruction for Levy**

An **example** of this form is attached to this information package. All questions must be answered. It specifically describes the property to be levied upon by the Sheriff. **It must be specific and complete.**

The Affidavit is created by the plaintiff

Personal Property Affidavit of Moving Party (Plaintiff) 56.27

Personal property includes goods, chattels, every kind of property that is not real.

Statute 56.27 (4) (a), (b), (c)

The Affidavit must State that you have review the database or judgment lien records according to 55.201 through 55.209 and that the information on the affidavit is true and correct.

- a. Information required under Statute 55.203 (1) and (2) for each judgment lien certificate indexed under the name of the judgment debtor as to each judgment creditor;
- b. **File number assigned** to the record of the original and if any second judgment lien and the **date of filing** for each judgment lien certificate under Statute 55.202 or 55.204 (3)
- c. A Statement from the moving creditor (you) do not have any other levy in process or if another levy is in process you believe that the total value of the property under execution does not exceed the amount of the outstanding judgments.

2. **Affidavit for Real Property**

Real Property consist of land

If you are doing a levy on land, please see the example of the affidavit pertaining to land which is listed on this information package. It is required to list all prior judgments list with the Clerk of the Court if any.

3. **Affidavit for UCC Security Interest**

A statement from the moving creditor (you) that you did the research and provide with any UCC listings and addresses.

4. **Affidavit of Same Name**

If the defendant is also known with another name, surname etc., this affidavit is required. It must have the original signature and print name of the attorney/plaintiff and must be notarized.

5. **Levy Deposit**

This deposit is required from you based on what you are going to levy on. (The deposit varies from county to county. Call first for an estimate on the deposit.)

6. **Certified Final Judgment – Current Copy.**

For the appropriate steps on real and personal property see the following detailed instructions.

Levy On Vehicle

Steps:

1. Consult Department of Motor Vehicles to inquire if the defendant(s) owns a vehicle. It must be registered in the debtor's name.
2. Obtain the correct VIN number (vehicle identification number) and tag on the vehicle.
3. Write directly to Division of Motor Vehicles in Tallahassee requesting for a Current Certified Print-out of ownership.
4. Affidavit of Moving Party (Plaintiff) Statute 56.27 (4) a, b, c.
5. Original Execution signed and sealed by the clerk of the court.
6. Original Instructions with original signature. (Example form at end of package.)
7. Required Deposit.

Plaintiff should determine whether there are any liens recorded against the property to be levied upon.

Levy On Land

Steps:

1. Find out if the defendant(s) owns any real estate and how the property is titled.
2. Obtain the legal description and physical address of the property to be levied upon.
3. If there are other owners, we will need their names, addresses and what percentage they own. We can only sell the defendant's right, title and interest of the property.
4. The property cannot be homestead.
5. Instructions for levy form. (Example form is attached at the end of this package.)
6. Required deposit. Presently deposit is \$500.00 per parcel.
7. Certified copy of Warranty Deed or Quick Claim Deed for proof of ownership.
8. Original Execution signed and sealed by the Clerk of the Court.
9. An Affidavit reference prior liens recorded with the Clerk of the Court is required. (Example form is attached)
10. Plaintiff should determine whether there are any liens recorded against the property to be levied upon.
11. Name and address of the Mortgage Holder.
12. Check to see if property is homestead.

***Note: Provided the originals or certified originals. Notarized forms when required and insure that all forms are current.**

Required Deposit For Levy Process

A deposit is required from you to cover expenses such as wrecker services, storage, packing, crating, hauling, newspaper advertisements and other Sheriff's cost etc.

The following are estimated levy deposits for the most common levies.

- Semi-trailer and large vehicle \$7,000.00
- Automobile \$5,250.00
- Real Estate (per address) \$ 500.00
- Stocks & Bonds \$ 300.00
- Business (and or inventory) Levy \$ 1,000.00 (Minimum)

⇒ Deposit for business levies, livestock etc will be estimated depending on the size and type of goods or animals.

⇒ Please make checks payable to Hillsborough County Sheriff. We will only accept an attorney's law firm check, cashier check or money order. We do not accept personal or business checks.

NOTE:

⇒ The sheriff's office may require additional deposits if the expenses exceed the amount deposited.

In the event that the defendant should pay the amount of the judgment amount, interest and all costs incurred by the sheriff's office, your levy deposit will be refunded to you.

Sheriff's Sales

There may be instances where the property sold does not bring sufficient money to cover all costs incurred by our office, in that event, your levy deposit will be used to cover all the cost incurred.

Once the levied property has been picked up, per your instruction, the levied item is held by the Hillsborough Sheriff's Office. Upon, the required certified mailing sent out to the defendant by our office.

We will hold the Sheriff's Sale of the levied item and sell at public auction to the highest bidder for cash at our office. It is to your advantage to be present at the Sheriff's Sale to protect your interest.

NOTE: At time of sale, cash or credit cards are the only forms of payment accepted

Distribution of Money Collected

All money received under execution/levy procedure will be paid in the following order:

1. All costs incurred by our office.
2. The amount of \$500 to the moving creditor (you) as Liquidated Expenses.
3. Judgment liens held by the Sheriff in the order that they have been recorded with the Department of State, and if land, by the recorded judgments with the Clerk of the Court.

Important:

Demand only for money from the defendant is not made by the Sheriff's Office in this county.

Depending on the outcome of the bid at the Sheriff's Sale, which we will have executed on your behalf, you may receive a full, partial or no reimbursement of your deposit.

Individuals interested in bidding on real/personal property will be on a cash or credit card basis only.

E-mail us your instructions for levy to:

cbuckley@hcsotampa.fl.us

scoelli@hcsotampa.fl.us

You will be contacted after your packet has been received and reviewed. Incomplete packages will be returned

Mailing Address:

**Hillsborough County Sheriff
700 East Twiggs Street
Attn: Civil Process, 3rd Floor
Tampa, FL 33602**

Example

Instructions For Levy and Sale

In the _____ Court _____, Florida

Plaintiff(s): _____

Vs.

Defendant(s): _____

Case Number: _____

In the matter of an execution issued in the above styled cause, you are hereby instructed to Levy upon and sell the following described property of the defendant(s)

All Rights, Interest & Title of Property Belonging to Defendant(s):

Mailing Address of Defendant(s):

(If there is more than one owner of the property, list all names & addresses:

1. _____

2. _____

Address Where Property Is located:

Is Property Homestead? Yes _____ / No _____

Description of Property: (If levy is on land provide legal description)

*****Demand Made After 3 Attempts: Yes _____ / No _____**

***INDICATE ALL LIEN HOLDERS/ADDRESSES
LISTED IN THE 56.27 AFFIDAVIT***

Example

Name of:
Any/All Mortgage Lien Holder(s): _____
Address: _____

Name of:
Any/All Lien Holder(s): _____
Address: _____
Defendants' Attorney:
Name _____
Address: _____

Payment Received from Defendant: Yes / No (Please Circle)

Date/s Payment Received _____
Amount Received _____

Received Payment Applied To:
Interest _____ (Please check)
Amount \$ _____
Judgment _____ (Please check)
Amount \$ _____

*Balance due on writ as of _____: \$ _____
(Please indicate Balance due as of Current Date, include date)
Balance due and owing on the Writ of Execution (required by statute)

The interest rate is established at the time a judgment is obtained and such interest rate shall be adjusted quarterly (JANUARY, APRIL, JULY AND OCTOBER) of each year in accordance with the interest rate in effect on that date as set by the Chief Financial Officer until judgment is paid.

*****Please insure the correct interest rate is being used to calculate balance due as of current date on your Instructions for Levy in accordance with the Chief Financial Officer.*****

It is fully understood and agrees that,

1. As Sheriff you shall be held blameless in making a wrongful levy, when acting upon these instructions,
2. I shall pay all cost incident to this levy, including reasonable attorney fees should the property levied upon, for any reason not be sold, or if upon sale should not produce sufficient money to pay said cost, unless said cost shall have been paid by the defendant,
3. As Sheriff you may require an appropriate cash deposit to cover estimated cost of levy and such other cost as might accrue or a bond for your protection or both,

4. In the event of a suit in any court for any reason whatsoever pertaining to this levy and sale, I (we) will pay reasonable attorney fees incurred by you as Sheriff in defense of said suit.
5. In the event of Bankruptcy I will be responsible to pay all cost incurred.

Print: _____ / _____ Plaintiff/Attorney's Name
 Signature: _____ Address
 Telephone: _____ Date: _____

Affidavit Regarding Prior Liens on Real Property Levy (Land)

- A. This is an attestation that the levying creditor or his/her attorney has reviewed the recordation records of the Clerk of the Court for _____ County, Florida, or through a current title search on the real property described within the Instruction for Levy and that the information contained in this affidavit is based on that review or search and is true and correct.
- B. This confirms the information required under S55.10 (1) 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 _____.

1. List style of case _____ (Plaintiff)
 vs. _____ (Defendant)

2. Court of Issuance _____

3. County _____

4. Case Number _____

5. Judgment Date _____

6. Money Judgment Amount \$ _____

7. Interest of Judgment _____

8. Name of party to be levied upon in the body of the writ issued:

9. Date recorded at Clerks' Office _____

10. Name of party filing the lien: _____
 Address: _____

11. **Name of Mortgage holder:** _____

Address: _____

12. **Any prior judgment(s) Yes/No**

(If yes we need A-I answered for each prior judgment)

- C. 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 of the property under execution does not exceed the amount of outstanding judgments.

It is my understanding, unless a directed court order to the Sheriff is received prior to the day of Sheriff's Sale, all monies received through levy or sale will be paid as prescribed: to the sheriff, for costs; the levying creditor in the amount of \$500.00 as liquidated expenses; and the priority lien holder as set forth in this Affidavit by the plaintiff/creditor or his/her attorney, in satisfaction of the judgment lien, provide that the judgment lien has not lapsed at the time of levy.

Date: _____

Affiant's Signature: _____

Print Name: _____

Address: _____

Notary _____

Example