

BREVARD COUNTY SHERIFF'S OFFICE CHECKLIST FOR BASIC REQUIREMENTS NECESSARY FOR A LEVY EXECUTION

DISCLAIMER

Often times when a levy packet is submitted to the Sheriff's Office, we have to reject it because certain information is lacking from the packet. In order to provide you notice of what items the Sheriff's Office looks for and requires for a levy we have made this levy packet checklist available to you as a courtesy from the Brevard County Sheriff's Office Civil Section.

Sheriff's Office employees will not assist in obtaining the information for the levying creditor. The person requesting the levy is responsible for determining what specific items are being levied upon. **IF THE PACKET IS NOT COMPLETE, IT WILL BE RETURNED TO YOU.**

****Sheriff's Office employees CANNOT give legal advice****

CHECKLIST ITEMS WE REQUIRE TO BE SUBMITTED WITH LEVY PACKET:

- Original Writ of Execution with Clerk of Court seal, a Certified copy of the Writ of Execution with Clerk of Court seal, or an electronic copy with the Clerk of Court seal. Per FSS 30.231(3)
- Copy of the Final Judgment and the Judgment Lien Certificate (Certified) for personal property
- Copy of Final Judgment recorded in (Name) County with public records book and page number, including address of the judgment lien holder for real property
- Proper Cost Deposits

INSTRUCTIONS FOR LEVY REQUIREMENTS

- Original Instructions for Levy

- Provide the issuing Court, Case Number, and Parties Involved (Case Caption)

- Statement: To the Sheriff of Brevard County, Florida you are hereby instructed to levy upon the specific personal property **OR** real property identified as follows:

- Description of Property (must be specific and complete)
(for a **personal property** levy, the property shall be specifically described.
If the personal property levy is for a motor vehicle you are required to provide current certified proof of ownership/title/registration which can be obtained through the DHSMV)
(for a **real property** levy, the full legal description shall be typed into the body of the instructions for levy along with a physical address of the property and shall provide proof of ownership/warranty deed/title search. We will not accept a separate document attached to the instructions to satisfy this requirement.)

- Final Judgment amount

- State if any payments were made by the debtor, all cost, and calculate the balance due on the writ

- Balance due on the writ
Per Florida Statute 30.30(1b)

- Provide the Interest Rate

- Full Signature Block of Attorney (Name, Address, Phone Number, FL Bar Number) or Signature of Plaintiff (no attorney)

- Date Instructions Prepared

STATUTORY LANGUAGE REQUIRED IN THE INSTRUCTIONS FOR LEVY

Note: The language is structured to be grammatically correct

- It is understood the sheriff is not liable for damages to anyone whomsoever for making a wrongful levy whenever the same has been made as required under subsection 30.30(1).
Per Florida Statute 30.30(2)

- It is understood that if the sheriff is attempting to execute any writ describing specific property, shall find it in the possession of anyone, other than the defendant, who is claiming the ownership or the right to the possession thereof, the sheriff, at his discretion, may require the plaintiff suing out the writ to furnish a bond, payable to such sheriff, in a sum not exceeding the reasonable value of the described property, as fixed by such sheriff, with sureties satisfactory to him conditioned to hold the sheriff harmless against liability for any loss or damage that might be sustained by anyone whomsoever by reason of his levying upon such described property, and indemnifying him for any expense (including reasonable attorney's fees) incurred by reason of any such claim.
Per Florida Statute 30.30(3)

- It is understood the sheriff is not liable for making any levy pursuant to the specific order of a court of competent jurisdiction.
Per Florida Statute 30.30(6)

- It is further understood and agreed that I shall pay the cost incident to this levy should the property levied upon, for any reason not be sold, including bankruptcy procedures, or if upon sale should not produce sufficient money to pay said costs, unless the costs should have been paid by the defendant.
Per Florida Statute 30.231

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CREDITOR'S AFFIDAVIT
Personal Property

- Provide the issuing Court, Case Number, Parties Involved (Case Caption)
- Statement attesting who is responsible for preparing the Instructions for Levy
- Full Signature Block of Attorney (Name, Address, Phone Number, FL Bar Number)
- Notarized

STATUTORY LANGUAGE REQUIRED IN THE CREDITOR'S AFFIDAVIT

Note: The language is structured to be grammatically correct

- In regards to this personal property levy, I have reviewed the database or judgment lien records established in accordance with FSS 55.201-55.209 and that the information contained in the affidavit based on that review is true and correct.
Per Florida Statute 56.27(4a)

- I have provided the sheriff with the information for each judgment lien certificate found indexed under the name of the Judgment Debtor (Insert Name), 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 FSS 55.202 and 55.204(3). **Per Florida Statute 55.203(1)(2)**

Judgment liens and other liens found recorded in their order of PRIORITY
by: ***Must provide an answer for each:***

- Case Style
- Case Number
- Filing Number of Judgment Lien Certificate
- Filing Date of Judgment Lien Certificate
- Final Judgment Date
- Final Judgment Amount
- Interest Rate

NOTE: If the review or title search of the court records revealed no other liens except the lien for this action, a statement attesting to that must be included in the affidavit.

- The levying creditor does not have any other levy in process. **OR** The levy creditor does have another levy in process and believes in good faith that the total value of the property under execution does not exceed the amount of outstanding judgments.

Per Florida Statute 56.27(4c) Please indicate which one applies, but it cannot be both

- I have reviewed the financing statement as provided in Part V of Florida Statute Chapter 679 in the name of the Judgment Debtor reflecting a security interest in property of the kind to be sold at the execution sale and, if any found filed, I have provided to the Sheriff, the names and addresses of all Secured Creditor(s), as listed in the financing statement, or any amendment to said statement. A review of the Florida Secured Transaction Registry and the only UCC filings indexed under the name of the Judgment Debtor is as follows:
Must indicate None or List the Other UCC Filings.

Per Florida Statute Chapter 679, Part V

- I understand the sheriff is responsible for sending certified mailing of NOTICE to all judgment debtors and judgment creditors who have acquired a lien as provided in Florida Statutes 55.10(1)(2), 55.202 and 55.204(3), and all secured creditors who filed financing statements as provided in Part V of Chapter 679 of Florida Statute.

Per Florida Statute 56.21

Attorney of record of judgment debtor: **None or Name/Address**

Judgment Debtor: **Name/Address**

Attorney of record of all Judgment Creditors, as listed in the certificate or any amendment to said certificate: **Name/Address**

All Judgment Creditors who do not have any attorney of record, as listed in the Judgment lien certificate, or any amendment to said certificate: **None or Name/ Address**

All Secured Creditor's UCC, as listed in the financing statements, or any amendments to said certificate: **None or Name/Address**

All co-owners of the personal property being levied upon: **None or Name/Address**

All other lienors: **None or Name/Address**

I understand that all money received under executions shall be paid, in the order prescribed, to the following: the sheriff, for costs; the levying creditor in the amount of \$500 as liquidation expenses; and the priority lienholder under s. 55.10(1) and (2), s. 55.202, s. 55.204(3), or s. 55.208(2), as set forth in an affidavit required by subsection 56.27(4), or the levying creditor's attorney, in satisfaction of the judgment lien, if the judgment lien has not lapsed at the time of the levy. The receipt of the attorney shall be a release of the officer paying the money to him or her. If the name of more than one attorney appears in the court file, the money shall be paid to the attorney who originally commenced the action or who made the original defense unless the file shows that another attorney has been substituted. **Per Florida Statute 56.27(1)**

It is understood that if the affidavit required by subsection 56.27(4) discloses that the property is also subject to any recorded mortgage, financing statement, tax warrant, or other lien, other than a judgment lien, which is junior in priority to the levying creditor's judgment lien, any surplus from the sale of the property shall be paid over to the registry of the court from which the execution issued for further proceedings to determine the priority in which such surplus shall be distributed among judgment lienholders, other lienholders, and other owner of the property sold.

Per Florida Statute 56.27(2b)

I understand that the sheriff may rely on the affidavit submitted as required under 56.27 and a Sheriff paying money received under an execution in accordance with the information contained in the affidavit under subsection 56.27(4) is not liable to anyone for damages arising from a wrongful levy or wrongful distribution of funds.

Per Florida Statute 56.27(5)

Provide Same Name Affidavit (can be included with the Creditor's Affidavit)

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CREDITOR'S AFFIDAVIT
Real Property

- Provide issuing Court, Case Number, Parties Involved (Case Caption)
- Statement attesting who is responsible for preparing the Instructions for Levy
- Full Signature Block of Attorney (Name, Address, Phone Number, FL Bar Number)
- Notarized

STATUTORY LANGUAGE REQUIRED IN THE CREDITOR'S AFFIDAVIT

Note: The language is structured to be grammatically correct

- In regards to this real property levy, I have reviewed the records of the clerk of court of the county where the property is situated, **and/or** I have 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

Per Florida Statute 56.27(4a)

- I have provided the sheriff with the information for each judgment lien found recorded on the real property, the information contained in the certified copy of recordation of each 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

Disclosure by the title search. Per Florida Statute 56.27(4b)

Judgment liens and other liens found recorded in their order of PRIORITY

by: ***Must provide an answer for each:***

- Case Style
- Case Number
- Assigned Reference Number (book/page number) of public record of Brevard County, Florida
- Recordation Date
- Final Judgment Date
- Final Judgment Amount
- Interest Rate

NOTE: If the review or title search of the court records revealed no other liens except the lien for this action, a statement attesting to that must be included in the affidavit.

- The levying creditor does not have any other levy in process. **OR** The levy creditor does have another levy in process and believes in good faith that the total value of the property under execution does not exceed the amount of outstanding judgments.

Per Florida Statute 56.27(4c) Please indicate which one applies, but it cannot be both

- I understand the sheriff is responsible for sending certified mailing of NOTICE to all judgment creditors who have acquired a lien as provided in Florida Statutes 55.10(1)(2), 55.202 and 55.204(3), and all secured creditors who filed financing statements as provided in Part V of Chapter 679 of Florida Statute.

Per Florida Statute 56.21

- Attorney of record of judgment debtor: **None or Name/Address**
- Judgment Debtor: **Name/Address**
- Attorney of record of all Judgment Creditors, holding a valid real-estate lien: **Name/Address**
- All Judgment Creditors who do not have any attorney of record, as listed in the Judgment lien certificate, or any amendment to said certificate: **None or Name/ Address**
- All co-owners of the real property being levied upon: **None or Name/Address**
- All other lienors: **None or Name/Affidavit**

- I understand that all money received under executions shall be paid, in the order prescribed, to the following: the sheriff, for costs; the levying creditor in the amount of \$500 as liquidation expenses; and the priority lienholder under s. 55.10(1) and (2), s. 55.202, s. 55.204(3), or s. 55.208(2), as set forth in an affidavit required by subsection 56.27(4); or the levying creditor's attorney, in satisfaction of the judgment lien, if the judgment lien has not lapsed at the time of the levy. The receipt of the attorney shall be a release of the officer paying the money to him or her. If the name of more than one attorney appears in the court file, the money shall be paid to the attorney who originally commenced the action or who made the original defense unless the file shows that another attorney has been substituted.

Per Florida Statute 56.27(1)

- It is understood that if the affidavit required by subsection 56.27(4) discloses that the property is also subject to any recorded mortgage, financing statement, tax warrant, or other lien, other than a judgment lien, which is junior in priority to the levying creditor's judgment lien, any surplus from the sale of the property shall be paid over to the registry of the court from which the execution issued for further proceedings to determine the priority in which such surplus shall be distributed among judgment lienholders, other lienholders, and other owner of the property sold.

Per Florida Statute 56.27(2b)

- I understand that the sheriff may rely on the affidavit submitted as required under this section, and a Sheriff paying money received under an execution in accordance with the information contained in the affidavit under subsection 57.26(4) is not liable to anyone for damages arising from a wrongful levy or wrongful distribution of funds.
Per Florida Statute 56.27(5)
- I have reviewed the Public Records of the Clerk of the Circuit Court of Brevard County, Florida, and found no claim filed by the named Judgment Debtor (Insert Name) exempting property as a homestead from forced sale. **Per Florida Statute 222.01(1)**
- Provide Same Name Affidavit (can be included with the Creditor's Affidavit)

NOTE:

> Judgment Lien Certificates [JLC] are obtained through the Florida Department of State and establish priority of liens. The Sheriff will pay proceeds of the sale in order of lien seniority. A cost deposit is required before any levy can proceed. If the property seized does not sell for enough to cover the statutory fees, cost of storage, and cost of advertisement, the costs will be deducted from the cost deposit and any remaining deposit will be returned to the creditor/attorney providing the deposit. If the sale reproduces enough money to cover all fees, the deposit is deducted from the sale proceeds and the deposit is refunded in full.

> Real property that is homestead cannot be levied upon.

> For Real Property Levies, the full legal description of the property must be typed into the instructions for levy. Attachments are not acceptable.

REMINDER:

The checklist provides the basic requirements for a standard levy. Additional documents may be Required as it relates to your specific levy.