

HOW TO COLLECT A MONEY JUDGMENT

Your Judgment entitles you to collect through various legal means. Read the Information for Collecting a Money Judgment. Determine which action you want to take and ask the clerk for the appropriate packet for garnishment, lien, writ or judgment debtor's examination.

The court **does not** collect the judgment for you and the court **cannot** recommend a method of collection for you as the court does not provide legal service.

You must decide which avenue of collection you will pursue. You will prepare and file the appropriate court forms. It is also your responsibility to obtain addresses or other information you may need as you pursue collection. The court will provide you with the forms and instructions. Any additional fees that may be incurred will be added to your judgment amount as accruing court costs.

The court will send a copy of the judgment to each side. It is suggested that you begin by sending a demand letter to the debtor. The demand letter should explain what you intend to do if the debtor does not pay you and whether or not you are willing to accept payments. ***After 10 days you may proceed with other collection efforts.***

Collecting on a judgment is not easy and may take time as well as additional court fees. Before spending a great deal of time and money, assess the probability of success. Get a credit report. Does the defendant own real estate? Is he/she employed? If there is no possibility of collection, it may not be wise to spend more money! The judgment can be taken to a credit agency and filed with them, it will then show up on the debtor's report and the concern of a negative credit report will cause some people to pay.

COURT FEES AND COSTS:

You may be required to pay additional court fees and/or costs in pursuing your judgment through collection. Please refer to the court's posted schedule of fees.

COLLECTION AGENCY:

You may consider referring your judgment to a collection agency. The agency will charge a percentage of what is collected. A listing of collection agencies can be found in the Yellow pages.

JUDGMENT DEBTOR EXAMINATION:

The purpose of a Judgment Debtor's Examination is to obtain information about assets and other information relevant to the judgment debtor that may aid you in collecting a judgment.

You may file a **PETITION IN SUPPORT OF SUPPLEMENTAL PROCEEDINGS** with the clerk. There is a fee for issuing an Order for Supplemental Proceedings. The court will set a date and time for the judgment debtor or other named person to appear as ordered. You must also be present at the scheduled examination, unless you have obtained counsel to appear on your behalf.

The Petition and order for Appearance will need to be served on the judgment debtor or on a person who has information or documents concerning the assets of the judgment debtor. The Order must be served by an officer of the court (a licensed process server). The process server will charge a fee for the service.

The Order for Appearance must be served personally on the judgment debtor; substitute service will not suffice. Be sure to instruct the person serving the order to note on the affidavit of service the judgment debtor's physical description and date of birth. Rule 64.1 Arizona Rules of Civil Procedures requires that the physical description be included on a civil arrest warrant, should it be necessary to issue one for failure to appear.

At the debtor's examination the party to whom the order was issued will be placed under oath and then you, or an attorney representing you, will conduct the examination. You may ask the judgment debtor questions concerning his/her assets or property. You should be prepared to know what questions you plan to ask the judgment debtor. The judgment debtor is required to bring in the documents and records specified by the order and to be prepared to answer you relevant questions concerning his/her assets or property. If the debtor fails to appear as ordered, after having been personally served, the court will issue a civil arrest warrant if one is requested. ARCP 64.1(b)

If the judgment debtor fails to make a good faith effort to properly participate in the proceedings or otherwise fails to comply with the Court's order, you may file a Motion for Sanctions for Non-compliance. The court clerk can provide you with a form. **ARS 22-524, ARS 12-1631**

GARNISHMENT:

Garnishment is a process that will enable you to gain access to monies owed to the judgment debtor by others.

There are two general types of garnishment proceedings:

- 1) Garnishment of earnings (wages the debtor is earning at a job)
- 2) Garnishment of non-earnings (i.e., deposits in a bank account)

You must let the clerk know the type of garnishment action you will be taking. The clerk will provide you with a garnishment packet containing required forms and more detailed information specific to the garnishment type.

To initiate the garnishment proceedings you will have to know where the judgment debtor works, banks, or who may owe the judgment debtor money. A written demand is required prior to garnishment of an individual's wages. After filling out and filing the application, the court will issue the Writ of Garnishment. A process server must serve the writ. The party or business holding the money must file an answer to the garnishment with the court. After an answer has been filed you must then apply for an order for the judge to release any money being held to you.

There is a fee for issuing a Writ of Garnishment. Additional costs will be incurred for service of the order. If you do not know a bank account number most banks will do a search for \$25.00 **ARS 12-1570 – 12-1598.17**

EXECUTION:

A Writ of Execution allows the Constable to take non-exempt personal property of the judgment debtor and hold it for sale at a public auction for the purpose of satisfying the judgment. The clerk can provide you with a writ of execution form. There is a fee for issuing a Writ of Execution plus constable service fees and other constable fees incurred with execution of the Writ.

There are two kinds of Writs of Execution. A special writ tells the constable to execute on personal property that is specifically named or identified by the creditor. A general writ tells the constable to execute on any non-exempt personal property, at the constable's discretion, that the constable may find or locate at the address provided by the creditor. After the Writ of Execution is signed by the Judge, it will be forwarded to the Constable of the precinct where the property to be attached is located. The Constable will go to the location noted on the Writ. IF the Constable determines there is insufficient personal property to satisfy the judgment, the writ will be returned unsatisfied. The Writ is returnable in 60 days (meaning the constable has up to 60days to execute the Writ. You should contact the Constable's office serving the Writ if you have specific questions as to how the execution will be made and to find out how much the constable service fee will be.

ARS 22-244, ARS 12-1551

JUDGMENT LIENS ON REAL PROPERTY:

To record the judgment as a lien on real property, you must file a transcript of the Justice Court judgment with the Superior Court and then record it with the County Recorder. It can affect the judgment debtor's real property currently owned or later acquired (except any real property exempt from execution). The Judgment lien is active for five years from the date of judgment.

If you choose to follow this procedure you must obtain a certified copy of the judgment from the Justice court. There is a fee for the certified copy. Take the certified copy to the Office of the Clerk of Superior Court. You will file the certified copy with the Superior Court and pay a filing fee at that office. A Superior Court transcript of Judgment case number will be assigned.

When the transcript is filed with Superior Court, the judgment will be deemed the judgment of the Superior Court, and will be carried into execution in the same manner and with like effect as a judgment of the Superior Court. **ARS 12-1553; ARS12-1566**

You must then take the Superior Court Transcript of Judgment to the County Recorder's Office in any county where you think the judgment debtor owns real property. You will have to pay a recording fee to record it. When the recording is completed, the judgment lien is in effect. **ARS 22-246, ARS 33-961**

FOREIGN JUDGMENTS:

If the property or assets of the judgment debtor are located in another State it will be necessary for you to lodge your judgment as a foreign judgment with that State to pursue collection proceedings in that State.

You must obtain a certified copy of the judgment from the Justice Court. There is a fee for a certified copy. Take the certified copy to the Office of the Clerk of Superior Court. You will pay a filing fee at that office and a Transcript of Judgment case number will be assigned.

JUDGMENT LIENS ON DRIVER'S LICENSES:

If the judgment is the result of damages from a motor vehicle accident, a lien can be put against a judgment debtor's driver's license if the judgment remains unpaid 60 days after the judgment is entered. The lien will result in a suspension of the person's driver's license.

You will have to request that the clerk of the Justice Court fill out a form certifying that the judgment is not satisfied and request a certified copy of the judgment. The clerk will send the clerk's certification and the certified copy of the judgment to the Motor Vehicle Department. There is no fee for the certified copy of the judgment or for the clerk's certification. **ARS 28-4071**

RENEWAL OF JUDGMENT:

Your judgment is good for five years. As the financial status of the judgment debtor changes or you find out new information that will aid you in your collection attempts, you may actively pursue collection of your judgment for five years. If you have been unsuccessful in satisfying your judgment and the judgment is nearing five years in age, you may renew the judgment and continue collection proceedings for five more years. At anytime within 90 days prior to the expiration of the judgment you may file an Affidavit of Renewal with the court.

You will be required to calculate the new judgment amount. The clerk will provide you with a worksheet and affidavit for calculating the present judgment amount.

A renewed judgment can then be recorded with the County Recorder's Office or reported to the Motor Vehicle Department in the same manner you followed with your original judgment. There is a fee for filing a Certificate of Renewal. **ARS 12-1611**

SATISFACTION OF JUDGMENT:

After you collect the judgment, you must file a **SATISFACTION OF JUDGMENT** form with the Justice Court. The clerk can provide you with the form.

If a transcript of the judgment has been filed with Superior Court, the Satisfaction of Judgment must also be filed in the office of the Clerk of Superior Court.

If you have recorded your judgment in the County Recorder's Office, you must also file a copy of the Satisfaction of Judgment in that office.

If you have filed a clerk's certification of non-judgment with the Motor Vehicle Department, you must also file a copy of the satisfaction of judgment with that office.