

NEWSPAPER - Judgments and the collection of judgments

What is a money judgment?

A money judgment is a court order that awards the plaintiff a sum of money. The monies can be owed to the plaintiff for a variety of reasons. Some examples are the following: unpaid rent; damages to a rental unit; money borrowed; hospital bills; credit cards; and money owed for repossessed vehicles. A money judgment can also include money owed for court costs and attorney's fees, plus interest. This article does not apply to money owed for child support or alimony that a person has been ordered to pay.

What is the interest rate for a money judgment?

Section 55.03(1), Florida Statutes, covers interest rates on Final Judgments. The rate of interest can vary each year. For example, the interest rate for a judgment was 6% in the year 2003, and was 7% for the years 2004 and 2005. The rate of interest under this statute will accrue at the rate set for the year when the judgment was entered. For example, if a court entered a judgment against a defendant in 2005, the interest rate would be 7%. If parties enter into a written contract that states how much the interest rate would be on any unpaid monies due, then the interest rate set forth in the contract rules.

How long does a judgment act as a lien against real property?

According to §55.10, Florida Statutes, a judgment, order, or decree becomes a lien on **real property (land)** in any county when a certified copy of the judgment, order, or decree is recorded in the official records or judgment lien record of the county. The judgment, order, or decree is effective for an **initial** period of **ten (10) years** from the date the certified copy of the judgment was recorded. The lien holder can **extend** the judgment, order, or decree to be effective an additional ten (10) years, for a maximum of twenty (20) years, by re-recording a certified copy of the judgment, order, or decree prior to the time when the initial lien has expired.

Can a judgment act as a lien against personal property and, if so, how long?

According to §55.202, Florida Statutes, in order for a money judgment to act as a lien on **personal property**, the lien holder must file a judgment lien certificate with the Department of State. According to §55.204, Florida Statutes, the judgment is effective as a lien against personal property for an period of **five (5) years**. If the lien holder wants to continue to have a lien against personal property beyond the five (5) year period, then the lien holder will have to file a new judgment lien certificate with the Department of State. The new, second judgment lien will be effective for five (5) years.

What can a judgment creditor do to find out my income and assets?

A judgment creditor can take your deposition, which means that an attorney will ask you questions under oath in front of a court reporter about your income and assets. Creditors can also send you a list of questions called Interrogatories. You must answer the questions and sign the Interrogatories in front of a Notary Public. You could be sent

a Request For Admission which asks you to admit to certain things. You could also be served with a Request To Produce, which is a document that demands that provide the documents that are listed in the Request To Produce. Items that creditors are often looking for a such things as pay stubs, bank statements, titles or registrations to vehicles and boats, deeds to real property, and other documentation of income or assets. If you do not respond to the creditors requests for information and/or documents, the creditor could ask the court to require you to provide the information and pay the creditor's attorney's fees as a sanction.

Can a creditor garnish my wages?

It depends. You can protect your wages from being garnished if you are a head of household in which you provide more than one-half ($\frac{1}{2}$) of the support for a child or other dependent. The dependent does not have to be a minor. The dependent can be a significant other, parent, or other relative. You do not have to have legal custody of a minor child to claim that child as a dependent for purposes of protecting your wages from being garnished. Only your wages from employment can be protected under the head of household exemption. Under §77.041, Florida Statutes, when a creditor applies to have a debtor's wages garnished, the clerk of court's office is supposed to attach to the writ of garnishment a Notice. In order to claim wages, money, and other property as exempt from being garnished, the debtor must complete a form for Claim Of Exemption And Request For Hearing and have the form notarized. An example of the Claim Of Exemption And Request For Hearing is found in §77.041, Florida Statutes.

The Claim Of Exemption And Request For Hearing must be filed with the Clerk of Court's office where the judgment is recorded within twenty (20) days after the debtor receives the Notice. You must also send the creditor a copy of the Claim Of Exemption And Request For Hearing on the same day that you file it with the Clerk of Court's office. The creditor has two (2) days to object to the Claim of Exemption if the debtor hand delivered the Claim of Exemption to the creditor and, the creditor has seven (7) days to object to the Claim Of Exemption if the debtor sent the Claim Of Exemption by mail. If the creditor does not object to the Claim Of Exemption within the proper time frame, then the writ of garnishment will be dissolved and your wages, money, or property will be released. If the creditor objects within the proper time frame, then the court will hold a hearing to determine if your wages, money, or property is exempt from being garnished.

What types of income and assets are exempt from being garnished?

The following is a list of some of the types of income or property that are exempt from being garnished:

1. Homestead (a home you own or are buying which serves as your primary residence) under §222.01, Florida Statutes, and Article 7, Section 6 and Article 10, Section 4 of the Florida Constitution
2. Government Employees Deferred Compensation Plan Act, monies, pensions or other benefits under §112.215(10)(a)(b), Florida Statutes
3. Disability income benefits (disability income benefits under any policy or

contract of life, health, accident or other disability insurance of whatever form) under §222.18, Florida Statutes

4. Social Security Funds (federal old age, survivors, and disability insurance benefits) under 42 U.S.C. §401-403 and 42 U.S.C. §407.
5. Supplement Security Income (SSI) under 42 U.S.C.S. §1383(d) and 42 U.S.C.A. §407
6. Unemployment Compensation Benefits under §443.051(2), Florida Statutes.
7. Worker's Compensation benefits under §440.22, Florida Statutes.
8. Life Insurance Proceeds or Cash Surrender Value under §222.13 or 222.14, Florida Statutes.
9. Prepaid Post Secondary Education Trust Fund Program under §240.551(11) and §222.22, Florida Statutes.
10. Florida Crimes Compensation Act Awards under 960.14, Florida Statutes.
11. Individual Retirement Accounts (IRA) under §222.21(2), Florida Statutes.
12. Assorted retirement/pension plans.
13. Interest in a single motor vehicle, the value of which does not exceed \$1,000.00 under §222.25, Florida Statutes.
14. All professionally prescribed health aids for the debtor or for a dependent of the debtor under §222.25, Florida Statutes.
15. Personal property up to a value of \$1,000.00 under 222.061 and Article X, Section 4(a)(2) of the Florida Constitution. Under this exemption, the debtor makes an itemized list of personal property (e.g. household furniture, clothing, tools, jewelry, unpaid wages, other vehicles, etc. and assigns a value to each item or group of personal property. The debtor must also designate which items of personal property are exempt and which items are not exempt. If the debtor has personal property under this category which exceeds \$1,000.00 in value, the creditor could try to take the personal property that was not designated as exempt. The values of the listed personal property should be the fair market value of the personal property.

The above list is not a comprehensive list of everything that is protected from garnishment. However, the above list does address the more common types of income or assets that people have. If you have a question about your whether your income or

assets fall into a category that is protected from garnishment, you should seek the advice of an attorney. You must fill out the Claim Of Exemption form in order to make the money and property exempt from garnishment.

What happens when the Defendant pays off the judgment?

Once a Final Judgment is paid off, a Satisfaction of Judgment is supposed to be filed at the Courthouse. Section 55.141, Florida Statutes, addresses Satisfaction of Judgments and decrees.

Can you go to jail for not paying a debt in a civil case?

No. There is no debtor's prison for a debt owed in a civil case. However, you could be held in contempt of court for failure to pay child support or alimony and as a result, be sentenced to serve jail time or pay a specified amount of past due child support or alimony. As a separate note, if a criminal defendant does not pay any money that the Court orders him or her to do in the criminal case, then the criminal defendant could get into trouble and possibly face jail time.

Can I declare bankruptcy and wipe out my debts?

Maybe and maybe not. The bankruptcy laws changed in October, 2005, and it is more difficult for debtors to wipe out debt. In order to see if you would be eligible to wipe out your debt, you would need to seek the advice of a private bankruptcy attorney.