

EXECUTION PROCEDURE

JUDGMENT CREDITOR BOOKLET

See Booklet [CIV-503](#) for Instructions
about Executing on the Alaska
Permanent Fund Dividend

Court staff can usually answer questions about court procedures, court rules, court records, and forms. Court staff must remain neutral and impartial. They are not allowed to give legal advice. Court staff **cannot**:

- advise you how statutes and rules apply to your case
- tell you whether you presented your case properly and with the best evidence and arguments
- tell you which procedures are the best ones to use in your case
- interpret laws for you

If you need help with your case, you should talk to a lawyer.

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ALASKA COURT SYSTEM

This booklet and most of the forms mentioned in it are available
on the court system's website at
<http://courts.alaska.gov/forms/index.htm>

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Alaska Court System

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INTRODUCTION

Execution procedures are complicated. This booklet is a basic explanation of the steps generally involved. It is not, however, a complete statement of everything there is to know about how to collect the amount you are owed after you win a judgment in a court case.

For more information, you may want to read the Alaska Statutes on execution procedure: Chapter 35 and Chapter 38 of Title 9 of the Alaska Statutes (abbreviated as AS 09.35.010 etc. and AS 09.38.010 etc.). Be sure to check the supplement to see if any of the statutes have been amended. You may also want to read Civil Rule 69 in the Alaska Rules of Court.

You can find the statutes and court rules in the court's law library. Information about the library hours, locations, and contact information is at <https://courts.alaska.gov/library/locations.htm>. This webpage includes information on how to contact a librarian for help if you don't have a physical library at your local court location. The statute and rule books are also available in many city libraries and on the Internet:

- Court Rules: <https://courts.alaska.gov/rules/index.htm>
- Alaska Statutes: <https://www.akleg.gov/basis/statutes.asp>

For more information about the debtor's rights, you should read the *Judgment Debtor Booklet (CIV-511)*, available at all state courthouses and on the court system's website at ak-courts.info/civ511.

You may want to contact a lawyer for help. If you do not have a lawyer, the Lawyer Referral Service of the Alaska Bar Association may be able to help you find a lawyer. Call 272-0352 in Anchorage or 800-770-9999 if you are outside Anchorage (toll free within Alaska).

There may be some words used in this booklet that you don't know or that have special meanings when used in this type of legal procedure. The Glossary, which begins on page 36, may be helpful to you.

Note: This booklet describes the procedures to be used by general creditors (that is, creditors who do **not** have security interests in the debtors' property). Creditors who have a security interest in particular property owned by the debtor may have to follow special procedures in executing upon that property if they wish to assert their rights under the security interest. See AS 09.38.070. Also see footnote 31.

I. BRIEF OUTLINE OF EXECUTION PROCEDURE

If you won a judgment and the debtor failed to pay what the debtor owes you under that judgment, you may use execution procedures to try to collect your judgment.

The most common type of execution procedure works like this:

1. You (the judgment creditor) ask the court for a *Writ of Execution*.
2. The court issues the *Writ of Execution* and gives it to a process server picked by you from an approved list. You will have to pay the court to issue the writ and pay the process server to serve the writ.
3. The process server takes the *Writ of Execution* and uses it to seize some of the debtor's property (for example, money in the debtor's bank account). You have to tell the process server where to find the debtor's property, they will not investigate or go searching for it for you.
4. If the seized property is money, it is delivered to the court for safekeeping. If the process server seizes an item of personal property, they will place it in storage at your expense.
5. Various papers must be served on the debtor to notify the debtor that the property has been seized and that the debtor may have rights that will allow the debtor to get the property back. These rights are called the debtor's "exemptions." These papers can be served on the debtor by a process server or sent to the debtor by certified mail.
6. The debtor has a certain amount of time to contact the court to claim exemptions. If the debtor does so, you will have a chance to oppose it. Then, the court will decide whether to grant the exemptions. If the debtor does not claim any exemptions, the property may be sold at public auction in order to pay you.

As you will see in the following pages, execution procedures are frequently more complicated than this. Also, depending on the property you want to seize, the steps may be somewhat different. The above outline should, however, give you a general idea of the steps involved.

II. EXECUTION PROCEDURE

Preliminary Matters

A court case ends with the judge's decision on who won. The judge's decision will always be in writing. It is called the **judgment**.

If you win a judgment that says someone owes you money, you are called the **judgment creditor**. The person who owes the money to you is called the **judgment debtor**. These terms will be used throughout this booklet, so you should get used to them.

When you win your judgment, ask the judgment debtor to pay you voluntarily. The debtor may be willing to pay you, but just need some time. If you want to, you can ask the debtor if they would be willing to sign an agreement to make installment payments to pay off the judgment. The Court System provides a form for this in small claims cases called the *Stipulation for Installment Payments* (form [SC-18](#)).¹ Both you and the debtor must sign it and then a judge must approve it. As long as the debtor makes the agreed-upon payments on time, you will not be allowed to use execution procedures to collect the money owed to you. If the debtor fails to make the payments, you can begin execution procedures.²

Sometimes you cannot begin execution procedures immediately after winning your judgment. For example, the debtor may get a stay of execution from the court after filing an appeal. The debtor's filing of an appeal will not by itself prevent you from starting execution procedures. The debtor must also ask the court for a stay of execution of the judgment, and the court will require the debtor to give the court a bond (called a supersedeas bond) or make a cash deposit to assure that the judgment and all costs will be paid if the debtor loses the appeal. The debtor can ask the court to lower or even waive this bond, but you will have a chance to object to that before the judge decides whether to do so. If no stay is ordered, or the debtor does not post the bond that the court requires, you can proceed with execution procedures.

Another event that may prevent you from beginning execution procedures is if the debtor files for bankruptcy in federal court. Note that there may be other circumstances that prevent or delay you from beginning execution procedures in your particular case.

If it looks like the debtor is not going to pay you voluntarily and no stay of execution has occurred, you can begin execution procedures.

1 Parties in formal civil cases can use this form as a guide.

2 To begin execution procedures, you will first have to file with the court an affidavit (a sworn written statement) that the debtor has not complied with your installment payments agreement.

To Begin Execution Procedures

1. Go to the clerk's office. Tell the clerk you have a judgment and want a *Writ of Execution*. The court charges a fee for each writ issued.³
2. There is usually a brief waiting period after the judgment is distributed before a *Writ of Execution* can be issued. You will need to tell the clerk your case number so the clerk can check the file to see when your judgment was distributed. This date is shown at the bottom of the judgment in the clerk's certificate of distribution. The clerk can tell you if the required time period has passed.
3. If the required time period has passed, the clerk will then ask you which of the following four categories of property you are going to attempt to execute on:
 - a. debtor's earnings (for example, garnishing the debtor's paycheck)
 - b. debtor's property (money, some personal property, and real estate)
 - c. the type of debtor's personal property that is called "personal property subject to value limitations" under the Alaska statutes (this includes household goods, clothes, books, family portraits and heirlooms of particular sentimental value to the debtor, jewelry, professional books, tools of trade, pets, and one motor vehicle)
 - d. debtor's Alaska Permanent Fund Dividend (PFD). **Reminder:** See booklet [CIV-503](#) for instructions about how to execute on the PFD. There are no instructions in this booklet about PFD executions.

The clerk needs to know what you plan to seize in order to know which set of forms to give you. There are different procedures for seizing each of these categories of property.

When deciding what property to seize, keep in mind that the process servers in your area may not be willing to seize some types of property because they do not have safe storage areas available where the property can be protected until it is sold at public auction. You should ask about this before deciding what property you want to try to execute upon. You should also ask the process server about the fees for storing and selling the property if anything other than cash is seized. Also, check the *Judgment Debtor Booklet* ([CIV-511](#)) to see if the debtor may claim an exemption for the property you are thinking of seizing.

The first three sections which follow (Sections A, B and C) describe the procedures for executing upon the first three categories of property listed above. These are the procedures you must follow if your judgment is for an amount of money. Section D on page 20 explains a fourth kind of procedure, the procedure to follow if your judgment is for a specific item of personal property rather than for an amount of money.

³ [Administrative Rule 9\(e\)\(10\)](#).

A. EXECUTING ON DEBTOR'S EARNINGS

If you want to seize the debtor's earnings⁴ while they are still in the possession of the debtor's employer, use the procedure described in this section. If, however, the debtor has already received the earnings and you want to seize the cash in the debtor's possession or in the debtor's bank account, use the procedure described in Section B, beginning on page 9.

Note: Some types of income that appear to be earnings may actually be something else. For example, a crewman on a fishing boat may in some cases be an independent contractor rather than an employee. If so, there would be no employer-employee relationship, and the money the crewman receives might not be considered "earnings."⁴ If the money is not "earnings," the procedure described in Section B should be used.

Note: There are special procedures for seizing the wages of federal government employees.⁵ The execution paperwork must be served on the "garnishment agent" for the federal agency and additional identifying information about the debtor must be provided.⁶

Step 1: Get the Forms

You need the following forms (available in paper copy at your local court or online at <https://courts.alaska.gov/forms/index.htm>):

1. Writ Request Packet

CIV-506, *Information for Issuance of Writ of Execution on PFD or Garnishment of Earnings*

CIV-526, *Employer's Response to Writ of Execution for Garnishment of Earnings*

CIV-561, *Instructions to Process Server for Serving Writ of Execution for Garnishment of Earnings*

2. Debtor's Packet

CIV-530, *Notice of Garnishment and Notice of Right to Exemptions*

CIV-531, *Claim of Exemption from Garnishment*

4 "Earnings," as defined in AS 09.38.500(4), means money received by an individual for personal services and denominated as wages, salary, commissions, or otherwise.

5 5 USC 5520a. For active duty military, use the involuntary allotment procedure in 32 CFR 113.6 (Department of Defense Form 2653) instead of a writ of execution. For most other federal employees, see the procedures described in 5 CFR 582. Also see 42 USC 659 about garnishments for child support and alimony.

6 Contact the agency to get the garnishment agent's name and address, and any special procedures or information required. (Lists of designated agents are in Appendix A to 5 CFR 582 and Appendix A to 5 CFR 581.) Identifying information includes the debtor's full name, date of birth, social security number, official duty station, home address, and agency division or office. 5 CFR 582.203.

Step 2: Choose Process Server

The *Writ of Execution for Garnishment of Earnings* (prepared by the court) and the *Employer's Response* must be served on (delivered to) the employer. Normally, these documents must be served on the employer by a process server or peace officer.⁷ To pick a process server, follow the instructions for "Personal Service by Process Server" on page 21. You will need to know the name of the process server in order to fill out the service instructions in Step 3 below.

Note: If the debtor is a federal employee, the documents may be served on the federal agency's "garnishment agent" by certified mail by the court clerk.⁸

Step 3: Complete the Writ Request Packet

Fill out the following forms:

- a. [CIV-506](#), *Information for Issuance of Writ of Execution on PFD or Garnishment of Earnings*

Fill out the entire form. In the "Type of Writ" section, check the box for form CIV-525, *Writ of Execution for Garnishment of Earnings*.

- b. [CIV-526](#), *Employer's Response to Writ of Execution for Garnishment of Earnings*

Fill out the top of the form and the "Address of Court" and "Name of Judgment Debtor" beneath the case name block.

- c. [CIV-561](#), *Instructions to Process Server for Serving Writ of Execution for Garnishment of Earnings*

Fill out the entire form (or your process server's version of this form). At the bottom of the form, you must also indicate how you want the Debtor's Packet served. See Step 8 on page 6 about serving the Debtor's Packet.

Step 4: File Writ Request Packet with Court

After filling out the above three forms, file them with the court. Also, if you want the employer to send you a copy of the response form after the employer fills it out, give the clerk a self-addressed, stamped envelope for this.

If you want the process server to serve the Debtor's Packet (described in Step 8 below) on the debtor at the same time as the process server serves the writ on the employer, you should give the Debtor's Packet to the process server (with that instruction) before you file the Writ Request Packet with the court.

⁷ If there is no process server or peace officer available, you may file a written request asking the court to allow service on the employer by certified mail.

⁸ 5 CFR 582.202 and Civil Rule 69(f)(1). See page 4 and footnotes 4 and 5 about additional requirements for federal wage garnishments.

Step 5: Clerk Prepares the Writ and Delivers it to Process Server

The clerk will prepare a *Writ of Execution for Garnishment of Earnings* (CIV-525) and deliver it and the *Employer's Response* form to the process server you selected (or mail it by certified mail in cases where that method is authorized).

Step 6: Process Server Serves Writ

The process server will serve the writ and the response form on the employer.

Step 7: Employer's Response

The employer must fill out the *Response* ([CIV-526](#)) within 24 hours after receiving it and return it to the court.⁹ The response form will usually show how much money the employer will send to the court from the debtor's paycheck each payday until the judgment is paid in full.

If the court has not received the response form within about a week, you may want to ask the employer if the failure to return the form is because of an oversight or a misunderstanding. If the employer has some question about what is required, ask the employer to call the clerk of court. If the employer simply refuses to fill out the response form or return it to the court, you can ask the court for an *Order to Show Cause* the employer to come to court and explain the refusal to a judge (in small claims cases, you may use form [SC-26](#) for this).¹⁰

Step 8: Prepare and Serve Debtor's Packet

You must serve the Debtor's Packet on the debtor either before or within three days after the debtor's wages are seized.¹¹ You may want to serve the Debtor's Packet on the debtor at the same time the writ is being served on the employer, or you may want to wait until after the employer responds.

1. Fill out the following forms:
 - a. [CIV-530](#), *Notice of Garnishment and Notice of Right to Exemptions*
Fill out the entire form (including the court's mailing address on page 2).
 - b. [CIV-531](#), *Claim of Exemption from Garnishment*
Fill out only the top of the form (including the case number).
2. Serve the Debtor's Packet on the Debtor.

The Debtor's Packet may be served either by a process server or by certified mail. The two types of service are explained on pages 21-25. Select one and follow the instructions. The packet must be served on the debtor before or within three days after the debtor's wages are seized.

⁹ AS 09.40.060 and AS 09.35.110.

¹⁰ Parties in formal civil cases can use this form as a guide.

¹¹ AS 09.38.080(c).

Step 9: Proof of Service of the Debtor's Packet

Proof that the Debtor's Packet was served on the debtor must be filed with the court before the court will release to you any money collected under the writ. File the proof within 30 days after the court receives money from the employer for the first time. If proof is not filed within 30 days, the court may return the money to the debtor and terminate the writ.¹² If you cannot file proof of service within 30 days, you can ask the court for additional time to file the proof.¹³

1. Process Server

If the Debtor's Packet is served by a process server, the process server will file proof of service with the court. If you have any questions, contact the process server directly.

2. Certified Mail

If the Debtor's Packet is served by certified mail, the green postal receipt card will be returned to you. You must file it with the court along with an affidavit of service (see form [CIV-620](#)).

If the envelope sent to the debtor is returned to you, see paragraph "e" (Debtor's Packet Not Served) on page 23 for what to do.

Step 10: Claim of Exemption

The *Notice* ([CIV-530](#)) tells the debtor about the debtor's right to claim exemptions. The debtor has 15 days from the date the notice is received to claim exemptions. If the debtor wants to claim an exemption, they must fill out *Claim of Exemption* ([CIV-531](#)) and file it with the court. If the debtor files a claim form, the court will send you a copy of the claim and a form you can use to respond to it ([CIV-516](#)). You must file your response with the court within 10 days. The court will decide the claim based on the information submitted, or the court will schedule a hearing. If a hearing is scheduled, the court will notify both you and the debtor of the date and time it will be held. At the hearing, the debtor has the responsibility of convincing the court that the debtor should be given the exemption.¹⁴ You will have an opportunity to question the debtor and present any evidence you wish.

If the debtor does not file a claim for exemption within 15 days after receiving the notice form, the court will ordinarily conclude that the debtor has given up any possible claims, and the court will send the money to you as soon as it is sure the employer's check has cleared the bank. However, the court will not send the money to you until the court has received proof that the [CIV-530](#) notice has been served on the debtor.

Only part of the debtor's wages can be seized. The writ ([CIV-525](#)) and the notice ([CIV-530](#)) both explain the automatic exemption the debtor gets.

¹² Civil Rule 69(g)(5)(C).

¹³ Civil Rule 6(b).

¹⁴ AS 09.38.080(f).

Step 11: Collection of Money

Once the writ is served on the employer, the employer should begin sending payments to the court. The court will hold the money in its trust account for about 30 days. This 30-day waiting period allows the court to be sure the check has cleared the bank and also allows the debtor time to object to the seizure of the wages.

Unless ordered to do otherwise by the court, the employer should keep sending payments to the court on each of the debtor's paydays until the amount stated in the writ has been paid in full.

Step 12: Supplemental Notice to Writ of Execution

After the amount stated in the writ is paid in full, you may want to try to collect interest on the debt from the date of the writ to the date the debt was paid. The interest rate is usually stated in the judgment.¹⁵ You also may want to collect for the costs of having the writ and other papers served on the employer and the debtor. You may ask the court for a *Supplemental Notice to Writ of Execution for Garnishment* (CIV-533) to collect the interest and costs. The court will send this notice to the employer by first class mail.

Step 13: Terminating Writ

If for some reason the employer keeps sending payments to the court after your judgment is satisfied, you should tell the court this so the court can send the employer a *Notice of Termination of Writ of Execution* (CIV-542). This might happen, for example, if you receive partial payment of the judgment from another source (e.g., a voluntary payment from the debtor or another levy) while the wage garnishment is still continuing.

¹⁵ AS 09.30.070(a).

B. EXECUTING ON DEBTOR'S PROPERTY

The procedure described in this section can be used to execute on many kinds of property. There are, however, some kinds of personal property for which this procedure cannot be used (for example: household goods). See Section C beginning on page 15 for the procedure to use to execute on these special kinds of personal property.¹⁶ Also, see Section D, page 20, if you have a judgment for specific personal property rather than a money judgment. See booklet [CIV-503](#) for the procedures for executing on the Alaska Permanent Fund Dividend.

A few examples of the types of property that can be executed upon by using the procedure described in this section: cash, bank accounts, stocks and bonds, coin collections, land, buildings, business inventory and equipment, guns.

AS 09.35.030(1) requires you to execute on personal property before executing on real property. If sufficient personal property to satisfy the debt cannot be found, you can then execute on real property. "Real property" includes land, houses, and generally whatever is erected on, growing upon, or affixed to land. All other property is personal property.

Before you decide which property of the debtor's to try to seize, you should read the *Judgment Debtor Booklet* ([CIV-511](#)) to see if there is an exemption that will protect the property from seizure.

Step 1: Get the Forms

You will need the following forms (available in paper copy at your local court or online at <https://courts.alaska.gov/forms/index.htm>):

1. Writ Request Packet
[CIV-501](#), *Information for Issuance of Writ of Execution*
[CIV-560](#), *Instructions to Process Server for Serving Writ of Execution*
2. Debtor's Packet
[CIV-505](#), *Creditor's Affidavit*
[CIV-510](#), *Notice of Levy and Sale of Property and Notice of Right to Exemptions*
[CIV-511](#), *Judgment Debtor Booklet*
[CIV-515](#), *Claim of Exemptions*

¹⁶ Note about Motor Vehicles: Some judges allow the procedures in this section (Section B) to be used if the vehicle to be seized is worth more than \$27,000 or if the debtor has more than one motor vehicle. They require the procedures in Section C (page 15) to be used if the debtor's only vehicle is worth less than \$27,000. Other judges, however, require the procedures in Section C to be followed no matter how many vehicles the debtor owns and no matter what their value. If you are not sure which procedure the judge in your case will require, it is probably safest to follow Section C procedure to seize a motor vehicle. Otherwise, if you use Section B procedure and the judge decides that it is not the correct procedure, you may have to return the vehicle to the debtor and not be able to recover your costs of seizure. See AS 09.38.075, AS 09.38.020, and 8 AAC 95.030.

Step 2: Choose Process Server

The *Writ of Execution* (prepared by the court) must be served on (delivered to) the person in possession of the property by a process server or peace officer. To pick a process server, follow the instructions for "Personal Service by Process Server" on page 21. You will need to know the name of the process server in order to fill out the service instructions in Step 3 below.

If no process server or peace officer is available, you may file a written request asking the court to allow service by certified mail.

Step 3: Complete the Writ Request Packet

Fill out the following forms:

- a. [CIV-501](#), *Information for Issuance of Writ of Execution*

Fill out the entire form. In the "Type of Writ" section, check the box for form [CIV-500](#), *General Writ of Execution*.

- b. [CIV-560](#), *Instructions to Process Server for Serving Writ of Execution*

Fill out the entire form (or your process server's version of it). After you write in the name of the process server and some identifying information about yourself and the debtor, you must describe the property you want your process server to seize, tell them where it is located, and name the person in possession of it.

The following are some examples of what you might want to put in the "Directions" section of the form:

- (1) "Make a personal demand on [debtor's name] for money to pay the debt."
- (2) "Seize any funds at [name of bank or other institution]."
- (3) "Make a personal demand for cash at [name of business]."

At the bottom of the form, you must also indicate how you want the Debtor's Packet served. See Step 7 on the next page about serving the Debtor's Packet.

Step 4: File Writ Request Packet with Court

File the [CIV-501](#) information sheet and [CIV-560](#) process server instructions with the court.

You may also want to file the original *Creditor's Affidavit* ([CIV-505](#)) with the court at this time in order to save a trip to the courthouse. See Step 7 below about how to fill out this form.

Step 5: Clerk Prepares the Writ and Delivers it to Process Server

The clerk will prepare a *General Writ of Execution* ([CIV-500](#)) and deliver it to the process server you named in your [CIV-560](#) process server instructions.

Step 6: Process Server Serves Writ

The process server will take the *Writ of Execution* and attempt to serve it on the person or entity named in your [CIV-560](#) service instructions.¹⁷ If the person the writ is served on has the debtor's property, that person must turn the property over to the process server. If the item taken is cash, the process server must take it to the court where it will be deposited in the court's trust account. Any other property must be stored in a secure place by the process server at your expense.

When a process server serves a writ, the person or entity served must complete a response to the levy and return it to the process server within 24 hours.¹⁸

Step 7: Prepare and Serve Debtor's Packet

You must serve the Debtor's Packet (including the *Judgment Debtor Booklet*) on the debtor either before or within three days after the levy (that is, within three days after the debtor's property is seized).¹⁹ If, within 45 days after a seizure of property, you seize additional property listed in your *Creditor's Affidavit*, you are not required to serve another Debtor's Packet for that seizure.²⁰ The debtor still has a right to claim exemptions. The 15-day time limit for claiming exemptions for the subsequent seizure will begin the date the court receives the seized property.

1. Fill out the following forms:
 - a. [CIV-505](#), *Creditor's Affidavit*
Fill out the entire form. Your signature must be notarized. The court clerk can do this for you for free. File the original with the court (if you have not already done so), keep one copy for yourself, and serve the other copy on the debtor as part of the Debtor's Packet. The original affidavit must be filed with the court within three days after the levy (seizure of property).²¹
 - b. [CIV-510](#), *Notice of Levy and Sale of Property and Notice of Right to Exemptions*
Fill out the entire form (including the court's mailing address).
 - c. [CIV-511](#), *Judgment Debtor Booklet*
There is nothing to fill out in the booklet, but it must be included in the Debtor's Packet and served on the debtor.
 - d. [CIV-515](#), *Claim of Exemptions*
Fill out only the top of the form (including the case number).

¹⁷ Your process server must give the person holding the debtor's property both a certified copy of the writ and a notice specifying what property is being levied upon. Usually process servers have their own *Notice of Levy* forms, but if yours does not, form [CIV-555](#) is available at the court. AS 09.35.110, Civil Rule 89(f)(3), and *Beery v. Browning*, 717 P.2d 365 (Alaska 1986).

¹⁸ AS 09.40.060.

¹⁹ AS 09.38.080(c). These documents only need to be served on the debtor if something is actually taken (see definition of "levy" in the Glossary at page 36). For example, if a writ is served on a bank and the debtor has no account at that bank or no money in their account, it is **not** necessary to serve the notice and other forms on the debtor.

²⁰ Civil Rule 69(g)(4).

²¹ AS 9.38.080(b).

Executing on Debtor's Property

2. Serve the Debtor's Packet on the debtor.

The Debtor's Packet may be served either by a process server or by certified mail. The two types of service are explained on pages 21-25. Select one and follow the instructions. The packet must be served on the debtor before or within three days after the seizure of the property.

Step 8: Proof of Service of the Debtor's Packet

Proof that the Debtor's Packet was served on the debtor must be filed with the court before the court will release to you any money collected under the writ. File proof within 30 days after the court receives money from the process server. If proof is not filed within 30 days, the court may return the money to the debtor without further notice to the you.²² If you cannot file proof of service within 30 days, you can ask the court for additional time to file the proof.²³

1. Process Server

If the Debtor's Packet is served by a process server, they will file proof of service with the court. If you have any questions, contact the process server directly.

2. Certified Mail

If the Debtor's Packet is served by certified mail, the green postal receipt card will be returned to you. You must file it with the court along with an affidavit of service (see form [CIV-620](#)).

If the envelope sent to the debtor is returned to you, see paragraph "e" (Debtor's Packet Not Served) on page 23 for what to do.

If your attempts to serve the debtor are unsuccessful, see *Instructions: How to Request Release of Funds to Creditor* ([CIV-545](#)) and the accompanying forms.

Step 9: Claim of Exemption

The Debtor's Packet tells the debtor about the debtor's right to claim exemptions. The debtor has 15 days after receiving the packet to object to the levy by filling out the *Claim of Exemptions* ([CIV-515](#)) and filing it with the court.

Note: The debtor's 15 days to claim exemptions begin on the date the court receives the seized property if no Debtor's Packet is served on the debtor, because the property seized was property listed in the original *Creditor's Affidavit* and it was seized within 45 days after a previous seizure for which a Debtor's Packet was served. See Step 7.

²² Civil Rule 69(g)(5)(C).

²³ Civil Rule 6(b).

Executing on Debtor's Property

1. Debtor Files Claim of Exemptions

If the debtor files a *Claim of Exemptions*, the court will send you a copy of the claim and a form you can use to respond to the claim ([CIV-516](#)). You must file your response with the court within 10 days. When you receive the debtor's claim, be sure to tell your process server not to sell any property the process server has seized until the court decides whether to grant the debtor's claim of exemptions.

The court will decide the claim based on the information submitted, or the court will schedule a hearing. If a hearing is scheduled, the court will notify both you and the debtor of the date and time it will be held. At the hearing, the debtor has the responsibility of convincing the court that the debtor qualifies for one or more of the exemptions given by the statutes.²⁴ You will have an opportunity to question the debtor and present any evidence you wish.

The court will enter an order granting or denying the debtor's claimed exemptions and awarding any money seized either to you or to the debtor. If the property seized was **not** cash, the process server, pursuant to the court's order, will either release the property to the debtor or sell it at a public sale, after complying with the notice and other requirements of AS 09.35.140-.330 and AS 09.38.080(d).

The money from the sale will be sent to the court. You will either have to pay the costs of the sale in advance or the costs will be deducted from the proceeds of the sale. Be aware that you may not be able to recover some of these costs from the debtor. You should ask your process server what these costs will be before you decide to have property seized.

You should also be aware that if the bids at the sale are too low, the property cannot be sold. A bid for property that is less than the exempt value is not acceptable.²⁵ If a high enough bid is **not** received, the process server must return the property to the debtor.²⁶ If this happens, the costs of seizing the property, offering it for sale, and returning it will all be charged to you, and you **cannot** recover these costs from the debtor.

When the court receives the money, it will deposit the money in its trust account. If the court was given cash, the court can release the money (by a trust account check) right away. If the court was given a check, the court will have to wait until the check clears the bank (possibly 30 days in some courts) before releasing the money.

2. Debtor Does Not File Claim of Exemptions

If the debtor does not file a *Claim of Exemptions* with the court within 15 days from the date the notice is received, the process server can sell the property at a public sale as described above and forward the proceeds to the court for distribution.

²⁴ AS 09.38.080(f).

²⁵ Note: Be aware that AS 09.38.080(d) also requires: "If indebtedness secured by a valid lien is chargeable against the proceeds of the sale, the bid must exceed the amount of the indebtedness secured plus the amount of the exempt value."

²⁶ AS 09.38.080(d).

Step 10: Collection of Money

The court will hold the money in its trust account for about 30 days before releasing the money to you. This 30-day waiting period allows the court to be sure the check has cleared the bank and also allows the judgment debtor time to object to the seizure of the property.

Step 11: Terminating Writ

As soon as the judgment and all post-judgment costs and interest have been paid, you must instruct your process server to immediately return the writ to the court.²⁷

²⁷ Civil Rule 69(f)(2).

C. EXECUTING ON CERTAIN KINDS OF DEBTOR'S PERSONAL PROPERTY
(Section .020 Property²⁸)

State law gives special protection to certain kinds of personal property. The law does this by allowing the debtor to claim exemptions up to a certain amount for each kind of protected property. The following are the types of protected property and the amount of the exemption for each type:

1. Up to \$4,050 worth of household goods, clothes, books, musical instruments, family portraits, and heirlooms
2. Up to \$1,350 worth of jewelry
3. Up to \$3,780 worth of professional books and tools of trade
4. Up to \$1,350 for pets
5. Up to \$4,050 in one motor vehicle **if** the full value of the motor vehicle is not more than \$27,000

The exempt amounts are for the debtor's equity in the property, not for the actual value of the property. For example, if the only jewelry the debtor owns is a diamond ring worth \$1,500, and the debtor still owes the jewelry store \$500 for it, the debtor's equity in the ring would only be \$1,000. The ring would be protected from seizure because of the \$1,350 exemption for jewelry.

You can still try to execute upon these types of property (if there is equity that is not exempt), but the procedure is different from the procedure used to execute upon other types of personal property or real property belonging to the debtor. The debtor must be given an opportunity to claim exemptions in the property you wish to seize **before** the court will issue a writ allowing the property to be seized.

²⁸ The Alaska Statutes call this category of property "Personal Property Subject to Value Limitations." AS 09.38.020. The current exemption amounts are in the Administrative Code in 8 AAC 95.030(b) rather than in the statute, AS 09.38.020.

SERVICE OF "ORDER TO DEBTOR PACKET"

Step 1: Fill Out Forms in "Order to Debtor Packet"

To execute upon the types of property listed above, you must complete the following forms:

1. [CIV-535](#), *Creditor's Affidavit and Request*

Fill out the whole form. Your signature must be notarized. The court clerk can do this for you for free. Keep one copy of the form after it is notarized. Give the original and the other copy to the clerk.

The following are some examples of what you might say in your affidavit:

- a. "I wish to seize debtor's grand piano, trombone, clarinet, tenor saxophone, washing machine, dryer, microwave oven, color TV set, refrigerator, mink coat, and Sony video tape recorder. I believe this property is not exempt because the total value of the debtor's equity in this property is approximately \$7,000 and debtor's exemption for this type of property is only \$4,050."
- b. "I wish to seize debtor's truck. I believe this property is not exempt because the total value of the debtor's equity in this truck is about \$10,000, and the debtor is only entitled to an exemption of \$4,050 in one motor vehicle."

2. [CIV-536](#), *Order to Debtor and Notice of Exemption Rights (Property Subject to Value Limits under AS 09.38.020)*

Fill out the entire form except the judge's and clerk's signatures and date of issuance. Ask the clerk what the court's mailing address is (for the lines on page 2) if you do not know it.

3. [CIV-537](#), *Claim of Exemptions for Property Subject to Value Limits under AS 09.38.020*

Fill out only the top of the form (including the case number).

Step 2: File Forms with Court

After filling out the forms, file them with the court.

Step 3: Judge Rules on Your Request

Before these three forms can be sent to the debtor, a judge must approve your *Affadavit and Request* ([CIV-535](#)). If the judge **denies** your request, you will be notified. Then, you will either have to revise your request or try some other way to collect your debt.

If the judge **approves** your request, the judge will sign the *Order to Debtor*, and the court will mail the "Order to Debtor Packet" to you for service on the debtor. The order informs the debtor of your plan to seize the property listed in your affidavit, explains the debtor's right to object, and orders the debtor not to dispose of any of the property for 30 days.

Step 4: Serve “Order to Debtor Packet” on Debtor

The three forms in the "Order To Debtor Packet" must be served on the debtor either by a process server or by certified mail. The two types of service are explained on pages 21-25. Select one and follow the instructions.

If you are going to have the packet served by a process server, use form [CIV-615](#), *Service Instructions* (or your process server's version of it) to tell the process server how to serve the packet. List the three forms in the packet and describe where the debtor can be found.

Step 5: Proof of Service of the “Order to Debtor Packet”

Proof that the "Order to Debtor Packet" was served on the debtor must be filed with the court before the court will issue a writ of execution.

1. Process Server

If the packet is served by a process server, they will file proof of service with the court. If you have any questions, contact the process server directly.

2. Certified Mail

If the packet is served by certified mail, the green postal receipt card will be returned to you. You must file it with the court along with an affidavit of service (form [CIV-620](#)).

If the envelope sent to the debtor is returned to you, see paragraph "e" (Debtor's Packet Not Served) on page 23 for what to do.

Step 6: Claim of Exemptions

The debtor has 15 days from the date of issuance of the *Order to Debtor* to file a *Claim of Exemptions* with the court.

1. Debtor Files *Claim of Exemptions*

If the debtor files a *Claim of Exemptions*, the court will schedule a hearing. Both you and the debtor will be notified of the hearing date. The hearing should, if possible, be held before the 30-day order preventing disposal of the property expires. If it cannot be held before then, ask the court to extend the order for a longer period of time.

At the hearing, the judge will decide whether to grant the debtor's claim of exemptions. The judge's order will say whether or not a writ may be issued to seize any of the property you listed in your affidavit.

2. Debtor Does Not File *Claim of Exemptions*

If the debtor does not respond within the 15 days, you may do one of the following:

- a. If you know the location and description of the property listed in your affidavit, you may ask the clerk of court to issue a *Writ of Execution*.
- b. If you do not know the location of the items listed in your affidavit, or if you want more information about the description or value of the property, you can ask the court to order the debtor to appear in court so that you can ask the debtor questions under oath to get this information. To do this, fill out the “Motion” section of [CIV-540](#), *Motion and Order for Judgment Debtor to Appear*. File your motion with the court.

If the judge grants your motion, the judge will sign the “Order” section of the form, setting the date for the hearing. The clerk will send you and the debtor a copy of the order by first-class mail. If you want to be able to prove that the debtor received this order, you can have a process server serve the order on the debtor or mail a copy of the order by certified mail as described on page 22. You might want to do this if the restraining order box is checked and you want to later be able to prove that the debtor received notice of that order.

If the judge orders that a writ be issued (after the hearing on the debtor's claim of exemptions), or if the debtor does not claim exemptions within 15 days of being notified of their rights, you may ask the clerk to issue a *General Writ of Execution* ([CIV-500](#)).

Step 7: Choose Process Server

The writ must be served on (delivered to) the person in possession of the property by a process server or peace officer. To pick a process server, follow the instructions for "Personal Service by Process Server" on page 21. You will need to know the name of the process server in order to fill out the service instructions in Step 8.

Step 8: Fill Out Forms in "Writ Request Packet"

You must complete the following forms:

1. [CIV-501](#), *Information for Issuance of Writ of Execution*
Fill out the entire form. In the “Type of Writ” section, check the box for form [CIV-500](#), *General Writ of Execution*.
2. [CIV-615](#), *Service Instructions*
Fill out the entire form (or your process server's version of this form). On this form, tell the process server what property to seize and where that property is located. The property will be the property you listed in your affidavit except for any listed property that the court has declared exempt and totally protected from seizure. You will probably want to discuss the procedures with your process server before filling out the form.

Step 9: File Forms with Court

After filling out the forms, file them with the court.

Step 10: Clerk Prepares the Writ and Delivers it to Process Server

The clerk will prepare a *General Writ of Execution* ([CIV-500](#)) and deliver it and the process server instructions to the person you named in your [CIV-615](#) process server instructions.

Step 11: Process Server Takes Property, Sells It, and Deposits the Money with Court

The process server will take possession²⁹ of the property and sell it at a public auction after complying with the requirements of Alaska Statutes 09.35.140-.170 and Alaska Statute 09.38.080(d). Notice of the sale must be posted for at least 10 days prior to the sale, so it will probably be a minimum of two weeks after the property is seized before the proceeds of the sale will be deposited with the court by the process server.

You will either have to pay the costs of the sale in advance or the costs will be deducted from the proceeds of the sale. You may not be able to recover some of these costs from the debtor. You should ask your process server what these costs will be before you decide to have property seized.

You should be aware that if the bids at the sale are too low, the property cannot be sold. A bid for property that is less than the exempt value is not acceptable.³⁰ If a high enough bid is **not** received, the process server must return the property to the debtor.³¹ If this happens, the costs of seizing the property, offering it for sale, and returning it will all be charged to you, and you **cannot** recover these costs from the debtor.

Step 12: Release of Money

When the court receives the money, it will deposit the money in its trust account. If the money is in cash, the court can release the money (by a trust account check) right away. If the court is given a check, the court will hold the money in its trust account for about 30 days. This 30-day waiting period allows the court to be sure the check has cleared the bank.

Step 13: Terminating Writ

If the judgment and post-judgment costs and interest are paid to you before the writ is served or before the property is sold at auction, you must instruct your process server to either immediately return the writ to the court or to return the seized property to the debtor.

²⁹ To make the levy, your process server must give the person holding the debtor's property both a certified copy of the writ and a notice specifying what property is being levied upon. AS 09.35.110, Civil Rule 89(f)(3), and *Beery v. Browning*, 717 P.2d 365 (Alaska 1986). Usually process servers have their own *Notice of Levy* forms.

³⁰ Be aware that AS 09.38.080(d) also requires: "If indebtedness secured by a valid lien is chargeable against the proceeds of the sale, the bid must exceed the amount of the indebtedness secured plus the amount of the exempt value."

³¹ AS 09.38.080(d).

D. JUDGMENTS TO COLLECT SPECIFIC PERSONAL PROPERTY

Most of this booklet describes what to do if you win a judgment stating that the debtor owes you money. The procedures are quite different if you win a judgment stating that you are entitled to take possession of a specific item of personal property. Except as described in the footnote below,³² if you win a judgment for specific personal property, you do not need to file a creditor's affidavit with the court or serve a notice of levy on the debtor, because there are no exemptions that the debtor can claim. Instead, ask the court for the *Writ of Execution for Delivery of Specific Personal Property Listed in Judgment (Replevin)* (CIV-580).

Fill out the entire CIV-580 form except the clerk's signature and date and the other information at the bottom of the form. You must specifically describe the personal property that you plan to seize. **Your description must be identical to the description stated in your judgment.** Please type or print clearly using black ink when filling out this form.

Arrange for the writ to be served on the debtor or the person holding the debtor's property. Follow the instructions on page 21 about choosing and paying a process server. Use either the court's *Service Instructions* ([CIV-615](#)) or the process server's version of it. On it, describe the property you want the process server to seize, explain where it is located, and name the person in possession of it.

Return writ and service instructions to the clerk. The clerk will compare the information on your writ to your judgment and, if it is correct, sign the writ. The clerk will issue the writ to the process server you selected.

The process server will serve the writ on the person in possession of the property.³³ That person must then turn the property over to the process server. When the process server takes possession of the property, the process server must turn the property over to you as ordered in the judgment.³⁴

³² You will not be able to use the procedure described in this section if AS 09.38.070 applies to you. This statute may apply to you if you loaned the debtor money that has not been repaid and the property you wish to seize was security for that loan, but the loan was **not** made for the purpose of buying that property. If this describes your situation, see AS 09.38.070 for the procedure to follow.

³³ To make the levy, your process server must give the person holding the debtor's property both a certified copy of the writ and a notice specifying what property is being levied upon. Usually process servers have their own *Notice of Levy* forms. AS 09.35.110, Civil Rule 89(f)(3), and *Beery v. Browning*, 717 P.2d 365 (Alaska 1986).

³⁴ Ordinarily, the property is then yours to do with as you wish. However, in some cases, your judgment may require you to sell the property and apply the proceeds to the debt that the debtor owes you.

III. SERVING DOCUMENTS

The two methods of serving documents discussed in this booklet are (1) personal service by a process server, and (2) service by certified mail. The procedures for each are described below.

1. Personal Service by Process Server

If you want to use a process server, you must:

- a. Choose a process server. The court clerk will have a list of process servers in your area. You can also find a list of licensed process servers on the Department of Public Safety website: <http://dps.alaska.gov/statewide/PermitsLicensing>. Click "Process Server List." Many parts of the state do not have process servers. In those areas, "process"³⁵ is served by peace officers (usually by State Troopers).

If the process server is not in your community, you must give the court an envelope addressed to the process server with sufficient postage so the clerk can mail the documents to the process server.

- b. Contact the process server to determine the service fee. Pay the fee directly to the process server unless the process server is not in your community. In that case, make your check payable to the process server, but give it to the clerk to mail with the documents to be served.

Fees are set by the individual process server. However, the maximum amount you may recover as costs from the debtor is governed by [Administrative Rule 11](#).

- c. Fill out *Service Instructions*. Use either the process server's form or one of the following court forms:

- [CIV-561](#) - for garnishing earnings
- [CIV-560](#) - for executing on property (except Section .020 property)
- [CIV-615](#) - for executing on Section .020 property or for serving Debtor Packets.

Explain in the instructions what documents are to be served and where they are to be served.

³⁵ "Process" means court orders such as writs of execution, summonses, subpoenas, orders to show cause, etc.

d. *Deliver Service Instructions.*

Writ of Execution. Give the service instructions for service of the writ to the clerk of court. If the process server is not in your community, include a check for the process server's fee and a postage paid envelope addressed to the process server. The clerk will prepare the writ and deliver it (and any other required documents) to the process server.

Debtor Packet. Give the service instructions and required documents to the process server.

e. **Proof of Service.** When service is completed, the process server will file proof of service with the court. The process server should also notify you. If you have any questions about the service, contact your process server directly.

2. **Service by Certified Mail of the Debtor's Packet**

a. **Prepare Envelope**

- (1) Prepare an envelope large enough to hold the documents to be sent to the debtor:

Wage Garnishment - a business-size white envelope

Section .020 Execution - a business-size white envelope

Other Property Execution - 9" x 12" manila envelope

- (2) Write the debtor's name and address on the envelope.
- (3) Put your return address in the upper left corner.
- (4) Put sufficient postage on the envelope to mail it by certified mail, restricted delivery, return receipt requested.

b. **Prepare Certified Mail Postal Forms.** See examples on pages 24-25.

- (1) Fill out a Certified Mail Receipt. Include the total postage amount.
- (2) Attach the sticker portion next to the return address at the top of the envelope. Leave the bottom portion of the receipt attached.
- (3) Beneath the certified mail sticker on the envelope, write "Return Receipt Requested, Restricted Delivery."
- (4) Fill out a green postal receipt card.

Front:

- Fill in your name and address so the card will be returned to you.
- Write the case number in the lower left corner.

Back:

- In the "Article Addressed To" box, fill in the name and address of the debtor, write "Restricted Delivery," and write the total postage amount.
- In the "Article Number" box, write the certified mail number.
- In the "Service Type" box, check "Certified Mail."
- Check the "Restricted Delivery" box.

(5) Attach the green card to the envelope.

- c. Mail the Debtor Packet.
- d. Proof of Service

The green postal card will be returned to you. You must file the green postal card along with an affidavit of service with the court. You can use *Affidavit of Service by Certified Mail* ([CIV-620](#)).

- e. Debtor's Packet Not Served

If the envelope sent to the debtor is returned (for example, because of insufficient postage, of an error in the address, or the debtor is no longer at the address listed on the envelope), the post office will return the envelope to you. You can try re-mailing it by certified mail or you can have the Debtor's Packet served by a process server.

SAMPLE ENVELOPE

Chris Plaintiff
626 Circle Avenue
Anchorage, AK 99508

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL™

(POSTAGE)



7005 1820 0003 5124 2125

RETURN RECEIPT REQUESTED
RESTRICTED DELIVERY

DEBBIE DEBTOR
1810 MISSION ROAD
ANCHORAGE AK 99501

CERTIFIED MAIL RECEIPT

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

3AN 08 333 CI

OFFICIAL USE

| | | |
|---|----|------|
| Postage | \$ | XXXX |
| Certified Fee | | XXXX |
| Return Receipt Fee (Endorsement Required) | | XXXX |
| Restricted Delivery Fee (Endorsement Required) | | XXXX |
| Total Postage & Fees | \$ | XXXX |

Postmark Here

Sent To **DEBBIE DEBTOR**

Street, Apt. No.,
or PO Box No. **1810 MISSION ROAD**


City, State, ZIP+4 **ANCHORAGE AK 99501**

PS Form 3800, June 2002 See Reverse for Instructions

Note: It is the customer's responsibility to verify the amount of postage required for mailing.

GREEN POSTAL RECEIPT CARD

(FRONT)

| | | |
|--|---|--|
| UNITED STATES POSTAL SERVICE |  | First-Class Mail Postage & Fees Paid USPS Permit No. G-10 |
| • Sender: Please print your name, address, and ZIP+4 in this box • | | |
| CHRIS CREDITOR 626 CIRCLE AVENUE ANCHORAGE AK 995081234 | | |
| 3AN-08-333 CI | | |

(BACK)

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY |
|--|---|
| <ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits. | A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee |
| 1. Article Addressed to: DEBBIE DEBTOR 1810 MISSION ROAD ANCHORAGE AK 99501 RESTRICTED DELIVERY Postage: \$XXXX | B. Received by (Printed Name) C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No |
| 2. Article Number (Transfer from service label) | 3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. |
| | 4. Restricted Delivery? (Extra Fee) <input checked="" type="checkbox"/> Yes |
| PS Form 3811, February 2004 | 7005 1820 0003 5124 2125 Domestic Return Receipt 102595-02-M-1540 |

IV. HOW TO LOCATE DEBTOR'S ASSETS

As stated earlier in this booklet, it is your responsibility to find the debtor's money or property that can be seized.

A. PLACES TO LOOK

If you are having trouble finding this information, the following are some places you can check:

1. Municipal (City) Tax Department. At this office, you can ask if the debtor is paying taxes on any property. Depending on the city, you may be able to find out a variety of information about the debtor's assets. In Anchorage, for example, you could learn the following:
 - a) Real Estate. You can find out whether the debtor owns land within the municipality, the debtor's mailing address, the location of the land, and the value of the land and any buildings on it. For Anchorage, this information is available online at <http://www.muni.org/pw/public.html>.
 - b) Personal Property. You can find out if the debtor has filed a personal property return, the debtor's address, and the total value of the items listed. You cannot, however, find out which particular items of personal property (recreational vehicles, mobile homes, boats, etc.) are listed on the return.
 - c) Business Property. Same as personal property. You can find out if a return has been filed and the total value of the items listed, but you cannot find out which items are listed.
2. State Land Recorder's Office. You can examine land records at the state recorder's office to see if the debtor owns any real estate in Alaska or another state. For real estate in Alaska you can conduct your research online at the Recorders Office of the Alaska Department of Natural Resources at <http://dnr.alaska.gov/ssd/recoff/searchRO.cfm>. For real estate outside of Alaska, contact the recorder's office in the area where you believe the property is located.
3. Banks. Banks will not tell you if a person has an account with them unless they are served with a writ. If you think it is worth the service fee to find this out, you can have a process server serve a writ on any bank where you think the debtor might have an account.
4. Employers. If you think you know where the debtor works, you can call the employer and ask if the debtor works there. You can also contact past employers for information about locating the debtor. Employers are **not** legally required to answer your questions.
5. Business License Information. If you think the debtor may have a business or professional license in Alaska, you can search for information about the debtor and the debtor's business at <https://www.commerce.alaska.gov/web/>. Other state or local agencies outside of Alaska may have similar online search capabilities.

6. State Division of Motor Vehicles (DMV). At DMV, you can find out if the debtor has any vehicles registered in the debtor's name.³⁷ For records from Alaska DMV, there will be a \$10 charge for each record found. You can request records online at <https://dmv.alaska.gov/forms/> (DMV form 851).
7. Polk's Directory. R.L. Polk & Co. publishes a directory for most major cities in the United States. In Alaska, there are Polk Directories for Anchorage, Fairbanks and Northstar Borough, Mat-Su Valley, and Southeast Alaska. Some public libraries have the directories. One section of each directory is an alphabetical list of the names of all adult residents of the city. In this section, the directory lists as much of the following information as the company has been able to obtain: name, address, marital status, occupation, and employer. Even though the directory is revised every year, it is not necessarily complete or up-to-date. The directory also has information about businesses, such as names of officers, owners, and managers. Other sections of the directory list addresses by street number or name and telephone numbers in numerical order.
8. Telephone Directory. Most communities have at least one telephone directory where you can search for the debtor's telephone number and address at no charge. Many local telephone companies also offer directory assistance for a fee.
9. People-Finder Research on the Internet. There are many internet search engines and web-based businesses that may help you locate a debtor and the debtor's assets at no charge. For a comprehensive list of people-finder websites and other search techniques, see *Tips on Locating People* at <http://www.courts.alaska.gov/shc/family/shctips.htm>. You can also check popular online social networking sites such as Facebook.
10. Locate-and-Research Company. There are several private information companies that offer online research support to help you locate a debtor and the debtor's assets for a fee. Examples of locate-and-research companies include, but are not limited to, Accurint, Ingens, and Motznik.
11. Trial Court Records. You may search the Alaska Court System's trial court records online (<https://records.courts.alaska.gov/>) to find any cases involving the debtor. If you find cases online, you will need to go to the courthouse to check the files for a current address or information about any assets (such as a list of property in a divorce case). Search court records outside of Alaska by contacting those courts directly.
12. Military. If you believe that the debtor is in the military, you may contact one of the following military locator services:
 - Air Force: (210) 565-2660
 - Army: (866) 771-6357
 - Navy: (866) 827-5672 or (901) 874-3388
 - Marines: (703) 784-3942
 - Coast Guard: (866) 772-8724

³⁷ Information in vehicle records usually may **not** be disclosed to the public. AS 28.10.505. However, one of the exceptions to that rule is information requested for use in executing or enforcing a court judgment. AS 28.10.505(d)(3). You may have to show DMV your judgment and writ of execution.

13. Investigative Services. Some process servers and private investigators will, for a fee, search for the debtor's assets for you. Since they are experienced at this, they may be able to do it more efficiently than you. You will have to judge, however, whether the possibility of finding assets is worth the cost. The court may or may not allow you to recover these investigative costs from the debtor.
14. Personal Demand by Process Server. Once you get a writ, you can instruct your process server to make a personal demand upon the debtor. This means the process server would contact the debtor and ask the debtor to turn over all money or other property of value currently in the debtor's possession up to the amount necessary to pay the judgment. The process server charges a fee for doing this.

B. JUDGMENT DEBTOR HEARING

There is a court proceeding that may help you locate the debtor's assets: the judgment debtor hearing.³⁸

At a judgment debtor hearing, you (the judgment creditor) will be given a chance to ask the debtor (who will be under oath) what property they have and where it is located.

If you want a judgment debtor hearing, file *Motion and Order for Judgment Debtor to Appear* ([CIV-540](#)). Fill out the top of the form and the "Motion" section. If you want the court to order the debtor to bring certain documents to the hearing, you must list the documents in the second paragraph of the motion. If you want the court to order the debtor not to dispose of property before the hearing, you must ask for that in your motion.

Some courts may also ask you to go to the Calendaring Department and schedule a hearing time that is convenient for you before the order will be signed. The hearing date should be far enough away so there is time for the debtor to receive the court's notice of the hearing.

The court will send notice of the hearing by first-class mail. If you want to be able to prove that the debtor received notice of the hearing and the court's order not to dispose of property, you may want to also send the notice by certified mail as described on page 22, or have it served by a process server.

What Happens at the Hearing

If you have difficulty hearing, tell the clerk and ask to use the assisted listening equipment available in the courtrooms.

You may bring your lawyer with you to the hearing. The debtor may also bring a lawyer.

At the hearing, the judge or clerk will ask the debtor to take the witness stand. The debtor will have to swear (or affirm) that they will truthfully answer any questions asked.

The judge will then tell you (or your lawyer) that you may begin asking your questions.

³⁸ See Civil Rule 69(b)(1).

Generally, you can ask any question you want about the debtor's assets and their current and possible future financial situation. Some examples of things you could ask about:

- place of employment and amount of earnings
- any income from sources other than the debtor's job
- location and value of any houses, land, etc. that the debtor owns or has an interest in
- location, description, and value of any motor vehicles, airplanes, boats, etc. that the debtor owns or has an interest in
- any businesses the debtor owns
- bank accounts (location and amount)
- stocks, bonds, certificates of deposit, savings bonds, time certificates, money market funds, etc.
- locations of safety deposit boxes
- interest or dividend payments from any source (including Alaska Permanent Fund Dividends)
- whether anyone owes any money to the debtor
- whether the debtor has an income tax refund coming
- cash currently in the debtor's possession
- other valuables (jewelry, paintings, stereo equipment, etc.)

The debtor can object to your questions. If an objection is made, the judge will have to decide if your question is relevant; that is, if it has some logical relationship to the debtor's current or future financial situation. If the judge decides the question is relevant and orders the debtor to answer it, the debtor must answer it. If the debtor refuses to answer it, the judge can hold the debtor in contempt of court.

If the examination shows that the debtor has property that could be executed upon, the judge can order the debtor to use that property to satisfy the judgment.³⁹

Alternatively, you can use the information gained at the hearing to locate the debtor's property and have it seized under a *Writ of Execution*. You may want to ask the judge at the hearing to order the debtor not to dispose of the property for a certain period of time so that you can have it picked up under a writ.

C. FORMAL DISCOVERY PROCEDURES

You may also use the formal discovery procedures set forth in Civil Rules 26 through 37 to find the debtor's assets.⁴⁰ You will probably need a lawyer's help to do this.

³⁹ Civil Rule 69(b)(2).

⁴⁰ Civil Rule 69(a).

V. OTHER REMEDIES

A. Land Recorder's Office.

You can record a certified copy of the judgment with the District Recorder at any location where the debtor may have real property or do business. Recording a judgment creates a lien upon all the debtor's real property in the recording district.⁴¹ It creates a lien both upon real estate the debtor currently owns and any they may purchase in the future. The lien continues in effect for 10 years from the date of entry of the judgment. In addition, a recorded judgment may affect the debtor's credit rating.

You can purchase a certified copy of the judgment from the court that entered the judgment.⁴² You will also have to pay a fee for recording the document at the District Recorder's office.

The court clerk can tell you where the nearest recording office is. You will need to know the name of the recording district in which the debtor's property is located, because you must record your judgment in that district. There are 34 recording districts in Alaska. If you know where the property is located, but you do not know the name of the correct recording district, you can call or write to any of the District Recorder's offices and get this information. You can also get this information on the website for the Recorder's Office (in the Department of Natural Resources) at <https://dnr.alaska.gov/ssd/recoff/>.

If you do not live in the place where you want the judgment recorded, you can record the judgment by mail. Write to the correct District Recorder and give the name of the recording district in which your judgment should be recorded.⁴³ Enclose a certified copy of the judgment and a check for the correct amount of fees made payable to the "Department of Natural Resources." Also, write **on the judgment**: "Return To: [your name and address]." The recording office needs this so the judgment can be returned to you after recording. This information must be on the judgment, not just in a cover letter.

When the debtor pays the judgment, you must give the debtor an *Acknowledgment of Satisfaction of Judgment*. See page 32. In addition, if you previously recorded the judgment, you must include the following in your acknowledgment:⁴⁴

- (1) the book and page of the official record in which the judgment has been recorded, or the serial number assigned to the judgment by the recorder, **and**
- (2) the full name of the judgment debtor as it appears upon the judgment recorded.

41 AS 09.30.010.

42 [Administrative Rule 9\(e\)\(2\)](#). This rule, however, also states that a party is entitled to receive one free certified copy of the final judgment in the party's case.

43 Some District Recorder offices handle the recording for several different recording districts.

44 AS 09.30.310.

B. Department of Public Safety

Under certain circumstances, if your judgment arose from a motor vehicle accident and the debtor fails to pay it within 30 days after the judgment is final, the Department of Administration will suspend the debtor's driver's license until the judgment is paid. For this purpose, a judgment is final when the time for appeal has passed without the debtor having filed an appeal or, if the debtor did file an appeal, the debtor has lost the appeal.⁴⁵

If the debtor fails to satisfy the judgment within 30 days after the judgment is final, you may ask the clerk of court to send a certified copy of the judgment along with a certificate of facts (form [CIV-405](#)) about the judgment to the Department of Administration.⁴⁶ The court will not charge you a fee for this, but you will have to fill in all the information on form [CIV-405](#) and sign it. You will also need to provide a certified copy of the judgment and envelopes addressed to the plaintiff and defendant in the case.

When the Department receives these documents, it will suspend the debtor's driver's license.⁴⁷ The suspension will remain in effect (and no license or registration will be issued to the debtor) until the judgment is satisfied (or stayed) and until the debtor gives proof of financial responsibility for the future.⁴⁸ See AS 28.20.360 for the definition of when a judgment is considered satisfied for purposes of this license suspension procedure. Also see AS 28.20.300-.325 for some situations in which the debtor's driver's license will not be suspended.

⁴⁵ AS 28.20.630(1).

⁴⁶ AS 28.20.280.

⁴⁷ AS 28.20.270.

⁴⁸ AS 28.20.330.

VI. CREDITOR'S DUTY TO ACKNOWLEDGE SATISFACTION OF JUDGMENT

When the debtor pays the judgment (including costs and interest), it is your duty to give the debtor a document acknowledging that the judgment has been satisfied.⁴⁹

The Alaska Statutes⁵⁰ require that if your judgment is satisfied **other than with a writ of execution**, you or your lawyer must "deliver a written acknowledgment of satisfaction of judgment suitable for recordation immediately upon payment in cash or within 10 days after payment if payment is made in any other manner, and, upon motion, the court may compel an acknowledgment of satisfaction or may order the entry of satisfaction to be made without it."

Also, after the judgment is paid in full, if the debtor makes a written demand upon you to do so, you must execute and file an acknowledgment of satisfaction with the court. If you fail to do so within 30 days without just cause, the Alaska Statutes state that you will be liable to the debtor for all damages that the debtor may sustain because of that failure **and** that you will have to pay the debtor \$100.⁵¹

Also, court rules require that **in all small claims cases**, you must file an acknowledgment of satisfaction with the court.⁵² Use *Satisfaction of Judgment* ([SC-17](#)). In formal civil cases, you can use this form as a model to create your own satisfaction of judgment.

⁴⁹ AS 09.30.300 and AS 09.30.310.

⁵⁰ AS 09.30.300(a).

⁵¹ AS 09.30.300(b).

⁵² District Court Civil Rule 20(e).

VII. OTHER INFORMATION

1. What can I do if I don't know where the debtor is?
 - a. The Alaska Court System provides an online tool called *Tips for Locating People* at <http://www.courts.alaska.gov/shc/family/shctips.htm>. Also see the other techniques described in Section IV of this booklet.
 - b. You could refer the case to a collection agency that might be able to find the debtor.
 - c. You also could check with your accountant or the IRS to find out whether you can deduct the loss when you file your income tax return.
 - d. Even though you cannot find the debtor, if you can find property of the debtor, you may be able to proceed with execution against the property. You will have to get the court's permission to make special provisions for notifying the absent debtor.
2. What if the debtor does not live in Alaska?
 - a. If you can find property of the debtor in Alaska, you can proceed with execution against the property. You will still have to serve the debtor with the notices and other documents required by the law. If the debtor is not a "resident" of Alaska as defined in AS 09.38.120(b) (see Glossary), the debtor is not entitled to the exemptions provided by Alaska law. Instead, the debtor is entitled to the exemptions provided by the laws of the debtor's state. AS 09.38.120.
 - b. If the debtor has no property in Alaska but has property in another state, you may be able to execute on that property by following the execution procedure under the laws of that state.
3. What if the debtor is a corporation?

Corporations are not entitled to exemptions because exemptions belong only to individual persons. Therefore, there is no need to serve a creditor's affidavit or notice of exemptions on the corporation. Note, however, that the judgment must be against the corporation in its corporate name, and the property to be seized must be corporate property. The court may require you to file an affidavit stating this before releasing any funds to you.

4. What if the debtor is a borough, city, or other public corporation?

If you get a judgment against a borough, city, or other public corporation, no writ of execution may be issued on the judgment. Instead, you must follow the procedure described in AS 09.30.040 to collect the amount due. A "public corporation" is a corporation organized for governmental purposes.

5. What if the debtor is a partnership?

Partnerships are not entitled to exemptions because exemptions belong only to individual persons. Therefore, there is no need to serve a creditor's affidavit or notice of exemptions on the partnership. Note, however, that the judgment must be against the partnership itself (and not **just** against the individual members of the partnership), **and** the property to be seized must be partnership property. The court may require you to file an affidavit stating this before releasing any funds to you.

Note: If the debtor is an individual person who also happens to have an interest in a partnership, the specific partnership property is exempt from execution to collect the debts of that individual debtor (because it is not partnership debts). AS 09.38.100(b). The income to the individual from the partnership could, however, be executed on. For further information about partnerships, see Title 32 of the Alaska Statutes.

6. What if the debtor's property is co-owned with another (for example, spouses)? Can the property still be executed on to pay debt belonging to only one of the co-owners?

Yes. However, only the debtor's interest in the property can be executed on. Therefore, even after the sale of the debtor's interest in the property, the non-debtor co-owner would still have an ownership interest in the property. This might not be a workable situation. To separate these interests might involve a court partition action. As a practical matter, this procedure is complicated and you should contact a lawyer for assistance. See also AS 09.38.100(a).

7. How long can you wait after your judgment is entered before getting a writ of execution?⁵³

No more than 5 years, unless you get an order from the court allowing you to get one later. See AS 09.35.020 and Civil Rule 69(d).

⁵³ AS 09.10.040 states that a “person may not bring an action upon a judgment ... unless the action is commenced within 10 years.” However, this statute does **not** apply to writs of execution because writs of execution are enforcement procedures for existing judgments, not “actions” seeking to obtain new judgments. *State ex rel. Inman v. Dean*, 902 P.2d 1321, 1322 (Alaska 1995).

VIII. CLAIMS ENFORCEABLE AGAINST EXEMPT PROPERTY

AS 09.38.065 lists some types of claims and judgments that are enforceable against exempt property. This statute says:

- (a) Subject to AS 06.60.360(e), and notwithstanding other provisions of this chapter,
 - (1) a creditor may make a levy against exempt property of any kind to enforce a claim for
 - (A) child support;
 - (B) unpaid earnings of up to one month's compensation or the full-time equivalent of one month's compensation for personal services of an employee; or
 - (C) state or local taxes;
 - (2) a creditor may make a levy against exempt property to enforce a claim for:
 - (A) the purchase price of the property or a loan made for the express purpose of enabling an individual to purchase the property and used for that purpose;
 - (B) labor or materials furnished to make, repair, improve, preserve, store, or transport the property; and
 - (C) a special assessment imposed to defray costs of a public improvement benefiting the property; and
 - (3) a creditor may make a levy against exempt property of any kind to enforce the claim of a victim, including a judgment of restitution on behalf of a victim of a crime or a delinquent act, if the claim arises from conduct of the debtor that results in a conviction of a crime or an adjudication of delinquency, except that the debtor is entitled to an exemption in property
 - (A) not to exceed an aggregate value of \$3,000 chosen by the debtor from the following categories of property:
 - (i) household goods and wearing apparel reasonably necessary for one household;
 - (ii) books and musical instruments, if reasonably held for the personal use of the debtor or a dependent of the debtor; and
 - (iii) family portraits and heirlooms of particular sentimental value to the debtor; and
 - (B) not to exceed an aggregate value of \$2,800 of the debtor's implements, professional books, and tools of the trade.
- (b) Except as provided in AS 09.38.070 limiting the enforcement of certain security interests, this chapter does not affect any statutory lien or security interest in exempt property.
- (c) A creditor having a claim enforceable under (a) of this section against exempt property, before, at the time of, or a reasonable time after making a levy on property of an individual, shall serve on the individual a notice of the levy and of the basis for the creditor's right to make a levy on exempt property.

Note: Even though this statute says these types of claims are enforceable against exempt property, there are other statutes that continue to provide exemptions for certain types of the debtor's property. The court system does not at this time provide special forms or instructions for this type of execution procedure.

IX. GLOSSARY

Note: Many of the definitions in this Glossary come from Alaska Statute 09.38.500. If a definition is from this statute, a reference to the statute follows the definition. You may want to check this statute for definitions of other words not included in this glossary.

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| Affidavit | A written statement sworn to before a person officially permitted by law to administer an oath. Alaska Statute 09.38.080(b) describes what must be included in the "Creditor's Affidavit" required for some types of executions. |
| Certified Copy | A copy of a document or record, signed and certified as a full, true and correct copy by the person to whose custody the original is entrusted. |
| Creditor | The one who is owed money by the debtor as decided by the court in a judgment. |
| Debt | A legally enforceable monetary obligation or liability of an individual, whether arising out of contract, tort, or otherwise. AS 09.38.500(3). |
| Debtor | The one who owes money to the creditor as decided by the court in a judgment. |
| Default | When a party fails to file an answer to a complaint or does not show up for a trial, a judgment may be entered automatically against them. |
| District Court | The level of court in the court system that can hear cases for the recovery of money when the amount claimed is not more than \$100,000 per defendant. |
| Earnings | Money received by an individual for personal services and denominated as wages, salary, commissions, or otherwise. AS 09.38.500(5). |
| Execute | To carry out or enforce. |
| Execution | The procedure for carrying out or enforcing a court judgment. |
| Exempt | Protected. AS 09.38.500(6). |
| Exempt Property | Certain classes of property that the law protects either totally or partially from being taken to pay a debt established by a court judgment. |

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| Exemption | Protection from subjection to process or a proceeding to collect an unsecured debt. AS 09.38.500(6). |
| Household Goods | Includes those items that make a residence livable according to modern standards. AS 09.38.500(7). |
| Judgment | The final decision of a court in a case. A judgment states which person owes the other how much money (if any). |
| Judicial Lien | A lien on property obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding instituted for the purpose of collecting an unsecured debt. AS 09.38.500(9). |
| Levy | The seizure of property under a writ of attachment, garnishment, execution, or any similar legal or equitable process issued for the purpose of collecting an unsecured debt. AS 09.38.500(10). |
| Lien | <p>(A) a security interest;</p> <p>(B) a judicial or statutory lien;</p> <p>(C) a common law lien on property;</p> <p style="padding-left: 40px;">(i) only if the lien was consented to by the owner of the property affected; or</p> <p style="padding-left: 40px;">(ii) if not consented to by the owner of the property affected as provided in (i) of this subparagraph, only when the lien is accompanied by a specific order authorizing the recording or filing of the lien issued by a court of competent jurisdiction recognized under state or federal law, which order shall be recorded or filed with the lien; or</p> <p>(D) any interest in property other than one described in (A) –(C) of this paragraph securing payment of a debt or performance of an obligation. AS 09.38.500(11).</p> |
| Motion | A request that a judge make a ruling or take some other action. |
| Personal Property | Movable property, as opposed to land and buildings (which are called real property). |
| Replevin | A lawsuit to get back specific personal property in the hands of another person (as opposed to asking for money for the value of the property). See above definition of personal property. |
| Resident | An individual who is physically present in the state and who intends to maintain a permanent home in Alaska. AS 09.38.120(b). |

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| Return of Service | A certificate signed by a peace officer or process server stating whether a particular document was delivered; how, when, and to whom it was delivered; and who delivered it. |
| Security Interest | An interest in property created by contract to secure payment or performance of an obligation. For example, a car loan that is secured by the possession or repossession of the car. AS 09.38.500(13). |
| Service (Serve Notice) | To deliver legal documents to a person (in a way authorized by statute or court rule) notifying the person of certain required information. In the execution procedures law, to "serve notice" is specifically defined as follows: "to give the person to be served a written personal notice in the same manner a summons in a civil action is served, or to mail the notice to the person's last known address by first-class mail and by using a form of mail requiring a signed receipt." AS 09.38.500(14). |
| Small Claims | A type of case heard in district court for the recovery of money or property when the amount claimed is no more than \$10,000. The formal court rules of evidence and procedure are relaxed. |
| Statutory Lien | A lien arising by force of a statute under specified circumstances or conditions, but does not include a security interest. AS 09.38.500 (15). |
| Superior Court | That level of court that can hear cases for the recovery of money in any amount, but usually more than \$100,000. The Superior Court can also hear civil cases involving issues not solely about who owes money to whom. |
| Tort | A private or civil wrong other than a breach of contract. Examples include but are not limited to: claims of personal injury, malpractice, discrimination, defamation, and product liability. |
| Value | Fair market value of an individual's interest in property, not including liens of record. AS 09.38.500(16). |
| Writ | A court order requiring that something be done outside the courtroom or authorizing it to be done. |
| Writ of Execution | An order issued by a court stating the amount of money the debtor owes the creditor and directing a peace officer or process server to take the property of the debtor in order to pay that amount. |
| Writ of Execution for Garnishment of Earnings | A court order served on the debtor's employer that requires the employer to send part of the debtor's earnings to the court each payday to pay the amount owed the creditor. |

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