

# ENFORCEMENT OF JUDGMENTS OVERVIEW

By: Milt Rowland

Law Office of Milton G. Rowland

[milt@spokanelitigation.com](mailto:milt@spokanelitigation.com)

# Jurisdiction to commence supplemental proceedings

- The court's jurisdiction over litigation does not end when a decision is announced and a judgment is entered. The court's jurisdiction extends to the enforcement of the judgment as well.
- When a money judgment is entered against a party, other than a well-insured person or a solvent institution, collection efforts may become necessary. The debtor may take steps to avoid payment. Supplemental proceedings are authorized by RCWA Ch. 6.32 and are designed to assist the creditor in locating any assets owned by the debtor so that the assets can be applied toward a satisfaction of the judgment.
- Supplemental proceedings are typically conducted in the same county where the underlying judgment was entered but may be conducted in another county, if the judgment creditor files a transcript of the judgment in that county. [RCW 6.32.240](#).
- The creditor may examine the judgment debtor before resorting to enforcement mechanisms such as execution. By contrast, however, the creditor may examine a third person only after enforcement efforts have been unsuccessful.
- Supplemental proceedings are just one tool available to the judgment creditor to aid in locating assets owned by the debtor. Other tools include postjudgment depositions and interrogatories. Choosing among the various tools is usually a matter of weighing practical considerations, based upon the facts of the case.

# Supplemental proceedings--commencement

Supplemental proceedings are initiated by motion, by which the judgment creditor requests an order requiring the judgment debtor to appear at a specified time and place to answer the same. The order must be served in strict compliance with statutory procedures. If the debtor fails to appear, the court may issue a bench warrant for the debtor's arrest (see next section). The order is also enforceable through the court's contempt power. See RCW 6.32.010.

However, supplemental proceedings are not necessary for a judgment creditor to begin the sometimes-arduous process of locating and levying upon the judgment debtor's assets. The creditor may make use of CR 69.

The judgment creditor's motion to commence statutory supplemental proceedings comes with a substantial difference from CR 69 proceedings: the statutory procedures call for examination of the debtor or witness in the presence of the court, whereas a CR 69 deposition is much like any other civil discovery tool.

# Options of judgment creditor

Supplemental proceedings are just one tool available to the judgment creditor to aid in locating assets owned by the debtor. Other tools include postjudgment depositions and interrogatories and possibly other discovery. The creditor may choose supplemental proceedings, postjudgment discovery, or some combination of the two. Choice of one does not penalize or prohibit use of another.

# Postjudgment discovery: CR 69

**(a) Procedure.** The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of execution shall be in accordance with the practice and procedure of the State as authorized in RCW 6.13, 6.15, 6.17, 6.19, 6.21, 6.23, 6.32, 6.36, and any other applicable statutes.

**(b) Supplemental Proceedings.** In aid of the judgment or execution, the judgment creditor or successor in interest when that interest appears of record, may examine any person, including the judgment debtor, in the manner provided in these rules for taking depositions or in the manner provided by RCW 6.32. (Emphasis supplied.)

- CR 69

# FRCP 69

- **(a) In General.**
- **(1) *Money Judgment; Applicable Procedure.*** A money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution--and in proceedings supplementary to and in aid of judgment or execution--must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies.
- **(2) *Obtaining Discovery.*** In aid of the judgment or execution, the judgment creditor or a successor in interest whose interest appears of record may obtain discovery from any person--including the judgment debtor--as provided in these rules or by the procedure of the state where the court is located.

Fed. R. Civ. P. 69

- The underscored language in the federal rule has led federal courts to construe FRCP 69 more broadly than our CR 69. Wright and Miller, [12 Federal Practice and Procedure: Civil § 3014](#).

# Types of statutory executions (see CR 69(a))

“There shall be three kinds of executions: First, against the property of the judgment debtor; second, for the delivery of the possession of real or personal property or such delivery with damages for withholding the same; and third, commanding the enforcement of or obedience to any other order of the court. In all cases there shall be an order to collect the costs.”

## RCW 6.17.060 (West)

- The focus of this presentation is on the first kind of execution. It permits seizure of the judgment debtor's property by the sheriff under a writ of execution and sale of the property by the sheriff, with proceeds applied to pay the judgment, all as provided in RCWA chapters 6.17 and 6.21.

# RCW 6.13; Homesteads (limitations imposed by law and recognized in CR 69)

(1) The homestead consists of real or personal property that the owner uses as a residence. In the case of a dwelling house or mobile home, the homestead consists of the dwelling house or the mobile home in which the owner resides or intends to reside, with appurtenant buildings, and the land on which the same are situated and by which the same are surrounded, or improved or unimproved land owned with the intention of placing a house or mobile home thereon and residing thereon. A mobile home may be exempted under this chapter whether or not it is permanently affixed to the underlying land and whether or not the mobile home is placed upon a lot owned by the mobile home owner. Property included in the homestead must be actually intended or used as the principal home for the owner.

(2) As used in this chapter, the term “owner” includes but is not limited to a purchaser under a deed of trust, mortgage, or real estate contract.

(3) As used in this chapter, the term “net value” means market value less all liens and encumbrances senior to the judgment being executed upon and not including the judgment being executed upon.

RCW6.13.010 (West)

If the owner is married or in a state registered domestic partnership, the homestead may consist of the community or jointly owned property of the spouses or the domestic partners or the separate property of either spouse or either domestic partner: PROVIDED, That the same premises may not be claimed separately by the spouses or domestic partners with the effect of increasing the net value of the homestead available to the marital community or state registered domestic partnership beyond the amount specified in RCW 6.13.030 as now or hereafter amended. When the owner is not married or not in a state registered domestic partnership, the homestead may consist of any of his or her property.

RCW 6.13.020 (West)

# Amount of homestead exemption

A homestead may consist of lands, as described in [RCW 6.13.010](#), regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) **the total net value of the lands**, manufactured homes, mobile home, improvements, and other personal property, as described in [RCW 6.13.010](#), or (2) the sum of **one hundred twenty-five thousand dollars** in the case of lands, manufactured homes, mobile home, and improvements, or the sum of **fifteen thousand dollars** in the case of other personal property described in [RCW 6.13.010](#), except where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, in which event there shall be **no dollar limit** on the value of the exemption.

RCW 6.13.030

## RCW 6.15.010 (personal property exemptions)

- (1) Except as provided in RCW 6.15.050, the following personal property is exempt from execution, attachment, and garnishment:
- (a) All wearing apparel ... but not to exceed three thousand five hundred dollars in value...
  - (b) All private libraries ... of every individual, but not to exceed three thousand five hundred dollars ... and all family pictures and keepsakes.
  - (c) A cell phone, personal computer, and printer.
  - (d) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

# RCW 6.15.010 (cont.)

- (i) The individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed six thousand five hundred dollars in value for the individual or thirteen thousand dollars for the community...;
- (ii) Other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed three thousand dollars in value, of which not more than one thousand five hundred dollars in value may consist of cash, and of which not more than:”

There are numerous other exemptions, like an exemption for the family car up to \$3250.00 in value; please check RCW 6.15.010 for more specifics

(2) For purposes of this section, “value” means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

RCW 6.15.010

# RCW 6.17 (executions)

- (1) Except as provided in subsections (2), (3), and (4) of this section, the party in whose favor a judgment of a court has been or may be filed or rendered, or the assignee or the current holder thereof, may have an execution, garnishment, or other legal process issued for the collection or enforcement of the judgment at any time within ten years from entry of the judgment or the filing of the judgment in this state.

## RCW 6.17.020

- (6) The perfection of any judgment lien and the priority of that judgment lien on property as established by [RCW 6.13.090](#)\* and chapter 4.56 RCW is not altered by the extension of the judgment pursuant to the provisions of this section and the lien remains in full force and effect and does not have to be rerecorded after it is extended.

Continued perfection of a judgment that has been transcribed to other counties and perfected in those counties may be accomplished after extension of the judgment by filing with the clerk of the other counties where the judgment has been filed either a certified copy of the order extending the judgment or a certified copy of the docket of the matter where the judgment was extended.

- (7) Except as ordered in [RCW 4.16.020 \(2\)](#) or [\(3\)](#), chapter 9.94A RCW, or chapter 13.40 RCW, no judgment is enforceable for a period exceeding twenty years from the date of entry in the originating court. Nothing in this section may be interpreted to extend the expiration date of a foreign judgment beyond the expiration date under the laws of the jurisdiction where the judgment originated.

- See next slide

# RCW 6.13.090: Priority of judgment lien against homestead

A judgment against the owner of a homestead shall become a lien on the value of the homestead property in excess of the homestead exemption from the time the judgment creditor records the judgment with the recording officer of the county where the property is located. However, if a judgment of a district court of this state has been transferred to a superior court, the judgment becomes a lien from the time of recording with such recording officer a duly certified abstract of the record of such judgment as it appears in the office of the clerk in which the transfer was originally filed. A department of revenue tax warrant filed pursuant to RCW 82.32.210 shall become a lien on the value of the homestead property in excess of the homestead exemption from the time of filing in superior court.

RCW 6.13.090

Note that the priority of a district court judgment that has been “transferred” to superior court dates from the filing of a certified abstract of the judgment

# RCW 6.17 (adverse claims)

- The definitions in this section apply throughout this chapter.
- (1) “Adverse claimant” means a person, other than the judgment debtor or defendant, who claims title or right to possession of property levied on.
- (2) “Levying creditor” means the judgment creditor or plaintiff who obtained the writ of execution or attachment under which levy was made.

## RCW 6.19.010 (West)

An adverse claimant may assert a claim under the procedures provided in this chapter whether the levy was made under a writ of execution or of attachment and whether the writ was issued by a superior court or a district court of this state, but this chapter does not supersede common law or other remedies available to an adverse claimant before or after levy or sale.

## Wash. Rev. Code Ann. § 6.19.020 (West)

# RCW 6.17 (Judgment debtor owns property as tenant in common)

When a judgment debtor owns personal property jointly or in common with any other person, only the debtor's interest may be levied on and sold on execution, and the sheriff's notice of sale shall describe the extent of the debtor's interest as accurately as possible.

If the debtor's interest cannot be separately levied on, the sheriff shall take possession of the property unless the other person having an interest gives the sheriff a sufficient bond, with surety, conditioned to hold and manage the property according to law; and the sheriff shall then proceed to sell the interest of the defendant in such property. This section shall not be construed so as to deprive the joint or common owner of any interest in the property.

RCW 6.17.180

# Stay of execution

- In addition to any stay of execution provided by court rule, stay of execution shall be allowed on judgments of the courts of this state for the following periods upon the judgment debtor filing with the clerk of the court in which the judgment was entered a bond in double the amount of the judgment and costs, with surety to the satisfaction of the clerk, conditioned to pay the judgment, interests, costs, and increased costs, at the expiration of the stay period. If execution is issued before elapse of the stay period, the judgment debtor may nevertheless stay execution for the balance of the period by filing the required bond.

## RCW 6.17.040

- (1) In the supreme court and the court of appeals, the period of stay, measured from date of entry of judgment, shall be:
  - (a) On all sums under five thousand dollars, thirty days;
  - (b) On all sums over five and under fifteen thousand dollars, sixty days; and
  - (c) On all sums over fifteen thousand dollars, ninety days.
- (2) On judgments rendered in the superior court or a district court of this state, the period of stay shall be:
  - (a) On all sums under three thousand dollars, two months;
  - (b) On all sums over three thousand and under ten thousand dollars, five months; and
  - (c) On all sums over ten thousand dollars, six months.

# RCW 6.17 (cont.)

If execution of a judgment is stayed as permitted by RCW 6.17.040 and the judgment is not satisfied at expiration of the stay period, at any time thereafter the judgment creditor may, upon motion supported by an affidavit that the judgment or any part of it is unpaid and stating how much still remains due, have judgment against the surety on the bond for the balance remaining due, and have an execution on the judgment against the surety, on which stay shall not be allowed.

## RCW 6.17.050

When any judgment of a court of this state requires the payment of money or the delivery of real or personal property, it may be enforced by execution. When a judgment of a court of record requires the performance of any other act, a certified copy of the judgment may be served on the party against whom it is given or the person or officer who is required by the judgment or by law to obey the same, and a writ may be issued commanding the person or officer to obey or enforce the judgment. Refusal to do so may be punished by the court as for contempt.

## RCW 6.17.070

# RCW 6.17 (cont.)

All property, real and personal, of the judgment debtor that is not exempted by law is liable to execution.

RCW 6.17.090. RCW 6.17.100 states:

- (1) Before a writ of execution may issue on any real property, the judgment creditor must file with the court an affidavit as described in subsection (4) of this section and must mail a copy of the affidavit to the judgment debtor at the debtor's last known address.
- (2) If the affidavit attests that the premises are occupied or otherwise claimed as a homestead by the judgment debtor, the execution for the enforcement of a judgment obtained in a case not within the classes enumerated in RCW 6.13.080 must comply with RCW 6.13.100 through 6.13.170.
- (3) The term “due diligence,” as used in subsection (4) of this section, includes but is not limited to the creditor or the creditor's representative personally visiting the premises, contacting the occupants and inquiring about their relationship to the judgment debtor, contacting immediate neighbors of the premises, and searching the records of the auditor of the county in which the property is located to determine if a declaration of homestead or nonabandonment has been recorded by the judgment debtor. An examination of the debtor in supplemental proceedings on the points to be covered in the affidavit constitutes “due diligence.”
- (4) The affidavit required by this section shall include:

# RCW 6.17.100

- (a) A statement that the judgment creditor has exercised due diligence to ascertain whether the judgment debtor has sufficient nonexempt personal property to satisfy the judgment with interest and believes that there is not sufficient nonexempt personal property belonging to the judgment debtor to so satisfy the judgment. A list of personal property located shall be attached with an indication of any items that the judgment creditor believes to be exempt.
- (b) A statement that the judgment creditor has exercised due diligence to ascertain whether the property is occupied or otherwise claimed by the judgment debtor as a homestead as defined in chapter 6.13 RCW.
- (c) A statement based on belief whether the judgment debtor is currently occupying the property as the judgment debtor's principal residence and whether there is a declaration of homestead or nonabandonment of record. If the affidavit alleges that the property is not occupied or claimed as a homestead, the creditor must list the facts relied upon to reach that conclusion.
- (d) If the judgment debtor is not occupying the property and there is no declaration of nonabandonment of record, a statement based on belief whether the judgment debtor has been absent for a period of at least six months, with facts relied upon to reach that conclusion, and, if known, the judgment debtor's current address.

# RCW 6.17.110(1)-(3)

(1) The writ of execution shall be issued in the name of the state of Washington, sealed with the seal of the court, and subscribed by the clerk of the court in which the judgment was entered or to which it has been transferred, and shall be directed to the sheriff of the county in which the property is situated. The writ shall intelligibly refer to the judgment, stating the court, the county where the judgment was rendered, the names of the parties, the amount of the judgment if it be for money, and the amount actually due thereon; and if the judgment has been recorded, the writ shall so indicate and shall state the recording number.

(2) Before an execution is delivered on a judgment of a district court of this state, the amount of the judgment, or damages and costs, and the fees due to each person separately shall be entered in the docket and on the back of the execution. In any proceeding to enforce a judgment certified to a district court from the small claims department under \*RCW 12.40.110, the execution shall include the amount of the judgment owed plus reasonable costs and reasonable attorneys' fees incurred by the judgment creditor in seeking enforcement of the judgment in district court.

(3) A writ shall require substantially as follows:

(a) If the execution is against the property of the judgment debtor, it shall require the officer to satisfy the judgment out of the personal property of the debtor unless an affidavit has been filed with the court pursuant to RCW 6.17.100, in which case it shall require that the judgment be satisfied out of the real property of the debtor.

# RCW 6.17.110(a)-(f)

- (a) If the execution is against the property of the judgment debtor, it shall require the officer to satisfy the judgment out of the personal property of the debtor unless an affidavit has been filed with the court pursuant to RCW 6.17.100, in which case it shall require that the judgment be satisfied out of the real property of the debtor.
- (b) If the execution is against real or personal property in the hands of a personal representative, heir, devisee, legatee, tenant of real property, or trustee, it shall require the officer to satisfy the judgment out of such property.
- (c) If the execution is for the delivery of real or personal property, it shall particularly describe the property and state its value and require the officer to deliver possession of it to the party entitled thereto, and may, at the same time, require the officer to satisfy any charges, damages, or rents and profits recovered by the same judgment, out of the personal property of the party against whom it was rendered. If the property described in the execution cannot be delivered, and if sufficient personal property cannot be found to satisfy the judgment, it shall be satisfied out of the real property of the party against whom the judgment was rendered.
- (d) If the execution is to enforce obedience to any order, it shall particularly command what is required to be done or to be omitted.
- (e) If the nature of the case requires it, the execution may embrace two or more of the requirements of this section.
- (f) In all cases the execution shall require the collection of all interest, costs, and increased costs thereon.

RCW 6.17.110

# RCW 6.17.120, .130

The sheriff or other officer shall indorse upon the writ of execution in ink, the day, hour, and minute when the writ first came into his or her hands, and the execution shall be returned with a report of proceedings under the writ within sixty days after its date to the clerk who issued it. When there are several writs of execution or of execution and attachment against the same debtor, they shall be executed in the order in which they were received by the sheriff.

## RCW 6.17.120

When the writ of execution is against the property of the judgment debtor, the sheriff shall set the date of sale and serve on the debtor, in the same manner as service of a summons in a civil action, or cause to be transmitted by both regular mail and certified mail, return receipt requested, a copy of the writ, together with copies of RCW 6.13.010, 6.13.030, and 6.13.040 if real property is to be levied on, or copies of RCW 6.15.010 and 6.15.060 if personal property is to be levied on, and shall at the time of service, or with the mailing, notify the judgment debtor of the date of sale. If service on the judgment debtor must be effected by publication, only the following notice need be published under the caption of the case:

To ....., Judgment Debtor:

A writ of execution has been issued in the above-captioned case, directed to the sheriff of ..... county, commanding the sheriff as follows:

“WHEREAS, ... [Quoting body of writ of execution].”

The sale date has been set for ..... YOU MAY HAVE A RIGHT TO EXEMPT PROPERTY from the sale under statutes of this state, including sections 6.13.010, 6.13.030, 6.13.040, 6.15.010, and 6.15.060 of the Revised Code of Washington, in the manner described in those statutes.

## RCW 6.17.130

# RCW 6.17.140

- (1) If property has been attached, the sheriff shall indorse on the execution, and pay to the clerk forthwith, if he or she has not already done so, the amount of the proceeds of sales of perishable property or debts due the defendant previously received, sufficient to satisfy the judgment.
- (2) If the judgment is not then satisfied, and property has been attached and remains in custody, the sheriff shall sell the same, or sufficient thereof to satisfy the judgment. When property has been attached and it is probable that such property will not be sufficient to satisfy the judgment, the sheriff may, on instructions from the judgment creditor, levy on other property of the judgment debtor without delay.
- (3) If then any portion of the judgment remains unsatisfied, or if no property has been attached or the same has been discharged, the sheriff shall levy on the property of the judgment debtor, sufficient to satisfy the judgment, in the manner described in RCW 6.17.160.
- (4) If, after the judgment is satisfied, any property remains in custody, the sheriff shall deliver it to the judgment debtor.
- (5) Until a levy, personal property shall not be affected by the execution.
- (6) When property has been sold or debts received on execution, the sheriff shall pay the proceeds to the clerk who issued the writ, for satisfaction of the judgment as commanded in the writ or for payment of any excess proceeds to all interests in, or liens against, the property eliminated by the sale in the order of priority that the interest, lien, or claim attached to the property, as determined by the court. Any remaining proceeds shall be paid to the judgment debtor. No sheriff or other officer may retain any moneys collected on execution more than twenty days before paying the same to the clerk of the court who issued the writ.

# RCW 6.17.160(1)-(4)

- The sheriff to whom the writ is directed and delivered shall execute the same without delay as follows:
- (1) Real property, including a vendee's interests under a real estate contract, shall be levied on by recording a copy of the writ, together with a description of the property attached, with the recording officer of the county in which the real estate is situated.
- (2) Personal property, capable of manual delivery, shall be levied on by taking into custody. If the property or any part of it may be concealed in a building or enclosure, the sheriff may publicly demand delivery of the property. If the property is not delivered and if the order of execution so directs, the sheriff may cause the building or enclosure to be broken open and take possession of the property.
- (3) Shares of stock and other investment securities shall be levied on in accordance with the requirements of [RCW 62A.8-112](#).
- (4) A fund in court shall be levied on by leaving a copy of the writ with the clerk of the court with notice in writing specifying the fund.

# RCW 6.17.160(5)-(7)

- *(5) A franchise granted by a public or quasi-public corporation shall be levied on by (a) serving a copy of the writ on, or mailing it to, the judgment debtor as required by RCW 6.17.130 and (b) filing a copy of the writ in the office of the auditor of the county in which the franchise was granted together with a notice in writing that the franchise has been levied on to be sold, specifying the time and place of sale, the name of the owner, the amount of the judgment for which the franchise is to be sold, and the name of the judgment creditor.*
- (6) A vendor's interest under a real estate contract shall be levied on by (a) recording a copy of the writ, with descriptions of the contract and of the real property covered by the contract, with the recording officer of the county in which the real estate is located and (b) serving a copy of the writ, with a copy of the descriptions, on, or mailing the same to, the judgment debtor and the vendee under the contract in the manner as described in RCW 6.17.130.
- (7) Other intangible personal property may be levied on by serving a copy of the writ on, or mailing it to, the judgment debtor in the manner as required by RCW 6.17.130, together with a description of the property. If the property is a claim on which suit has been commenced, a copy of the writ and of the description shall also be filed with the clerk of the court in which the suit is pending.
- RCW 6.17.160

# RCW 6.17.170-.180

If a judgment debtor owns real estate jointly or in common with any other person, only the debtor's interest may be levied on and sold on execution, and the sheriff's notice of sale shall describe the extent of the debtor's interest to be sold as accurately as possible.

Wash. Rev. Code Ann. § 6.17.170 (West)

When a judgment debtor owns personal property jointly or in common with any other person, only the debtor's interest may be levied on and sold on execution, and the sheriff's notice of sale shall describe the extent of the debtor's interest as accurately as possible.

If the debtor's interest cannot be separately levied on, the sheriff shall take possession of the property unless the other person having an interest gives the sheriff a sufficient bond, with surety, conditioned to hold and manage the property according to law; and the sheriff shall then proceed to sell the interest of the defendant in such property. This section shall not be construed so as to deprive the joint or common owner of any interest in the property.

RCW 6.17.180

# RCW 6.17.190 (bond)

(1) After levy of execution upon personal property, the sheriff may permit the judgment debtor to retain possession of the property or any part of it until the day of sale, upon the debtor executing a written bond to the sheriff with sufficient surety, in double the value of such property, to the effect that it shall be delivered to the sheriff at the time and place of sale, and for nondelivery thereof, an action may be maintained upon such bond by the sheriff or the judgment creditor, or the judgment creditor may, on motion supported by affidavit that the property has not been delivered and the judgment remains unpaid, stating the amount unpaid, have judgment against the surety on the bond for the balance remaining due.

(2) In the alternative, the sheriff may appoint the judgment debtor as an agent to keep the property, without bond, upon written approval by the judgment creditor.

RCW 6.17.190

# RCW 6.19.010, .020

- The definitions in this section apply throughout this chapter.
- (1) “Adverse claimant” means a person, other than the judgment debtor or defendant, who claims title or right to possession of property levied on.
- (2) “Levying creditor” means the judgment creditor or plaintiff who obtained the writ of execution or attachment under which levy was made.

## RCW 6.19.010

An adverse claimant may assert a claim under the procedures provided in this chapter whether the levy was made under a writ of execution or of attachment and whether the writ was issued by a superior court or a district court of this state, but this chapter does not supersede common law or other remedies available to an adverse claimant before or after levy or sale.

RCW 6.19.020

# RCW 6.19.030 (adverse claimant)

(1) An adverse claimant to property levied on may demand and receive the property from the sheriff who made the levy, upon making and delivering to the sheriff an affidavit that the property is owned by the claimant or that the claimant has a right to the immediate possession thereof, stating on oath the value thereof, and giving to the sheriff a bond, with sureties in double the value of such property. The bond shall be conditioned that the claimant will appear in the court specified in RCW 6.19.050 after the bond is accepted by the sheriff, and make good the claim in the affidavit or will return the property or pay its value to the sheriff.

(2) Without giving a bond, an adverse claimant who delivers to the sheriff an affidavit as described in subsection (1) of this section may, on motion made within seven days after delivering the affidavit, appear in the court specified in RCW 6.19.050, with notice to the sheriff and to the attorney of record for the levying creditor, if any, otherwise to the levying creditor, and set a hearing at which the probable validity of the claim stated in the affidavit can be considered. If the court, after the hearing, finds that the claim is probably valid, it shall direct the sheriff to release the claimed property to the claimant; otherwise, the court shall direct the sheriff to continue to hold the property unless the claimant gives a bond as provided in subsection (1) of this section.

## RCW 6.19.050 (trial of adverse claim)

The sheriff shall immediately return the affidavit of an adverse claimant and the bond and justification, if any, to the office of the clerk of the court that issued the writ, unless the property was seized in another county, then to the clerk of the superior court of the county in which the property was seized or, if the levy was made under a writ of a district court of this state, then to a district court, to be selected by the sheriff, in the county in which the property was seized, and this case shall stand for trial in said court. The adverse claimant shall be the plaintiff, and the sheriff and the levying creditor shall be the defendants. The sheriff or levying creditor or both of them may respond to the affidavit, but no further pleadings are required, and any party may cause the matter to be noted for trial.

# RCW 6.21

All the provisions of this chapter governing sales of personal property, except vendors' interests under real estate contracts, shall apply to proceedings before district courts.

## RCW 6.21.010

Before the sale of personal property under execution, order of sale or decree, notice thereof shall be given as follows:

- (1) The judgment creditor shall, not less than thirty days prior to the day of sale, cause a copy of the notice of sale to be transmitted both by regular mail and by certified mail, return receipt requested, to the judgment debtor at the debtor's last known address, and by regular mail to the attorney of record for the judgment debtor, if any. The judgment creditor shall file an affidavit with the court showing compliance with the requirements of this subsection.
- (2) The sheriff shall post typed or printed notice of the time and place of the sale in three public places in the county in which the sale is to take place, for a period of not less than four weeks prior to the day of sale.

## RCW 6.21.020

# RCW 6.21.030(1) notice of sale

- Before the sale of real property under execution, order of sale, or decree, notice of the sale shall be given as follows:
- (1) The judgment creditor shall:
  - (a) Not less than thirty days prior to the date of sale, cause a copy of the notice in the form provided in RCW 6.21.040 to be (i) served on the judgment debtor or debtors and each of them in the same manner as a summons in a civil action, or (ii) transmitted both by regular mail and by certified mail, return receipt requested, to the judgment debtor or debtors, and to each of them separately if there is more than one judgment debtor, at each judgment debtor's last known address; and
  - (b) Not less than thirty days prior to the date of sale, mail a copy of the notice of sale to the attorney of record for the judgment debtor, if any; and
  - (c) File an affidavit with the court that the judgment creditor has complied with the notice requirements of this section.
- RCW 6.21.030

# RCW 6.21.030(2)

- (2) The sheriff shall:
  - (a) For a period of not less than four weeks prior to the date of sale, post a notice in the form provided in RCW 6.21.040, particularly describing the property, in two public places in the county in which the property is located, one of which shall be at the courthouse door, where the property is to be sold, and in case of improved real estate, one of which shall be at the front door of the principal building constituting such improvement; and
  - (b) Publish a notice of the sale once a week, consecutively, for the same period, in any daily or weekly legal newspaper of general circulation published in the county in which the real property to be sold is situated, but if there is more than one legal newspaper published in the county, then the plaintiff or moving party in the action, suit, or proceeding has the exclusive right to designate in which of the qualified newspapers the notice shall be published, and if there is no qualified legal newspaper published in the county, then the notice shall be published in a qualified legal newspaper published in a contiguous county, as designated by the plaintiff or moving party. The published notice shall be in substantially the following form:
    - RCW 6.21.030

# RCW 6.21.040-.050

The notice of sale shall be printed or typed and shall be in substantially the following form, except that if the sale is not pursuant to a judgment of foreclosure of a mortgage or a statutory lien, the notice shall also contain a statement that the sheriff has been informed that there is not sufficient personal property to satisfy the judgment and that if the judgment debtor or debtors do have sufficient personal property to satisfy the judgment, the judgment debtor or debtors should contact the sheriff's office immediately:

## RCW 6.21.040

(1) All sales of property under execution, order of sale, or decree, shall be made by auction between nine o'clock in the morning and four o'clock in the afternoon. Sale of a public franchise under execution or order of sale on foreclosure must be made at the front door of the courthouse in the county in which the franchise was granted. Sales of real property shall be made at the courthouse door on Friday unless Friday is a legal holiday and then the sale shall be held on the next following regular business day.

(2) If at the time appointed for the sale the sheriff is prevented from attending at the place appointed or, being present, should deem it for the advantage of all concerned to postpone the sale for want of purchasers, or other sufficient cause, the sheriff may postpone the sale not exceeding one week next after the day appointed, and so from time to time for the like cause, giving notice of every adjournment by public proclamation made at the same time, and by posting written notices of such adjournment under the notices of sale originally posted. The sheriff for like causes may also adjourn the sale from time to time, not exceeding thirty days beyond the day at which the writ is made returnable, with the consent of the plaintiff indorsed upon the writ.

## RCW 6.21.050

# RCW 6.21.060-.070

After sufficient property has been sold to satisfy the execution, no more shall be sold. Neither the officer holding the execution nor his or her deputy shall become a purchaser or be interested in any purchase at the sale.

## RCW 6.21.060

If the sale is of personal property capable of manual delivery, and not in the possession of a third person, it shall be within view of those who attend the sale and shall be sold in such parcels as are likely to bring the highest price; and upon receipt of the purchase money, the sheriff shall deliver the property to the purchaser and shall give a bill of sale containing an acknowledgment of the payment if the purchaser requests it. A vendor's interest under a real estate contract, including vendor's legal title to the real property, shall be treated as personal property for purposes of sale, but the sheriff shall give the purchaser both a bill of sale covering the vendor's interest under the contract and a sheriff's deed covering the vendor's legal title to the real property. In all other sales of personal property, the sheriff shall give the purchaser a bill of sale with an acknowledgment of payment. The sheriff shall return the proceeds with the execution to the clerk who issued the writ for payment as required by law.

## RCW 6.21.070

# RCW 6.21.080, .100

- A sale of a real property estate of less than a leasehold of two years unexpired term and a sale of a vendor's interest in real property being sold under a real estate contract shall be absolute. In all other cases, real property shall be sold subject to redemption, as provided in chapter 6.23 RCW.

## RCW 6.21.080

- (1) The officer shall strike off the land to the highest bidder, who shall forthwith pay the money bid to the officer, who shall return the money with the execution and the report of proceedings on the execution to the clerk of the court from which the execution issued: PROVIDED, HOWEVER, That when final judgment shall have been entered in the supreme court or the court of appeals and the execution upon which sale has been made issued from said court, the return shall be made to the superior court in which the action was originally commenced, and the same proceedings shall be had as though execution had issued from that superior court.
- (2) At the time of the sale, the sheriff shall prepare a certificate of the sale, containing a particular description of the property sold, the price bid for each distinct lot or parcel, and the whole price paid; and when subject to redemption, it shall be so stated. The matters contained in such certificate shall be substantially stated in the sheriff's return of proceedings upon the writ. Upon receipt of the purchase price, the sheriff shall give a copy of the certificate to the purchaser and the original certificate to the clerk of the court with the return on the execution to hold for delivery to the purchaser upon confirmation of the sale.

- RCW 6.21.100

# RCW 6.21.110(1)-(2)

- (1) Upon the return of any sale of real estate, the clerk: (a) Shall enter the cause, on which the execution or order of sale issued, by its title, on the motion docket, and mark opposite the same: "Sale of land for confirmation"; (b) shall mail notice of the filing of the return of sale to all parties who have entered a written notice of appearance in the action and who have not had an order of default entered against them; (c) shall file proof of such mailing in the action; (d) shall apply the proceeds of the sale returned by the sheriff, or so much thereof as may be necessary, to satisfaction of the judgment, including interest as provided in the judgment, and shall pay any excess proceeds as provided in subsection (5) of this section by direction of court order; and (e) upon confirmation of the sale, shall deliver the original certificate of sale to the purchaser.
- (2) The judgment creditor or successful purchaser at the sheriff's sale is entitled to an order confirming the sale at any time after twenty days have elapsed from the mailing of the notice of the filing of the sheriff's return, on motion with notice given to all parties who have entered a written notice of appearance in the action and who have not had an order of default entered against them, unless the judgment debtor, or in case of the judgment debtor's death, the representative, or any nondefaulting party to whom notice was sent shall file objections to confirmation with the clerk within twenty days after the mailing of the notice of the filing of such return.
- RCW 6.21.110

# RCW 6.21.110(3)-(6)

- (3) If objections to confirmation are filed, the court shall nevertheless allow the order confirming the sale, unless on the hearing of the motion, it shall satisfactorily appear that there were substantial irregularities in the proceedings concerning the sale, to the probable loss or injury of the party objecting. In the latter case, the court shall disallow the motion and direct that the property be resold, in whole or in part, as the case may be, as upon an execution received as of that date.
- (4) Upon a resale, the bid of the purchaser at the former sale shall be deemed to be renewed and continue in force, and no bid shall be taken, except for a greater amount. If on resale the property sells for a greater amount to any person other than the former purchaser, the clerk shall first repay to the former purchaser out of the proceeds of the resale the amount of the former purchaser's bid together with interest as is provided in the judgment.
- (5)(a) If, after confirmation of the sale and the judgment is satisfied, there are any proceeds of the sale remaining, the clerk shall pay such proceeds, as provided for in (b) of this subsection, to all interests in, or liens against, the property eliminated by sale under this section in the order of priority that the interest, lien, or claim attached to the property, as determined by the court. Any remaining proceeds shall be paid to the judgment debtor, or the judgment debtor's representative, as the case may be, before the order is made upon the motion to confirm the sale only if the party files with the clerk a waiver of all objections made or to be made to the proceedings concerning the sale; otherwise, the excess proceeds shall remain in the custody of the clerk until the sale of the property has been disposed of.
- (b) Anyone seeking disbursement of surplus funds shall file a motion requesting disbursement in the superior court for the county in which the surplus funds are deposited. Notice of the motion shall be served upon or mailed to all persons who had an interest in the property at the time of sale, and any other party who has entered an appearance in the proceeding, not less than twenty days prior to the hearing of the motion. The clerk shall not disburse such remaining proceeds except upon order of the superior court of such county.
- (6) The purchaser shall file the original certificate of sale for record with the recording officer in the county in which the property is located.
- RCW 6.21.110

# RCW 6.21.120 (sheriff's deed)

- In all cases where real estate has been, or may hereafter be sold by virtue of an execution or other process, it shall be the duty of the sheriff or other officer making such sale to execute and deliver to the purchaser, or other person entitled to the same, a deed of conveyance of the real estate so sold. The deeds shall be issued upon request immediately after the confirmation of sale by the court in those instances where redemption rights have been precluded pursuant to RCW 61.12.093 et seq., or immediately after the time for redemption from such sale has expired in those instances in which there are redemption rights, as provided in RCW 6.23.060. In case the term of office of the sheriff or other officer making such sale shall have expired before a sufficient deed has been executed, then the successor in office of such sheriff shall, within the time specified in this section, execute and deliver to the purchaser or other person entitled to the same a deed of the premises so sold, and such deeds shall be as valid and effectual to convey to the grantee the lands or premises so sold, as if the deed had been made by the sheriff or other officer who made the sale.

## RCW 6.21.120

- A purchaser of real property sold on execution, or a purchaser's successor in interest, who is evicted in consequence of the reversal of the judgment may recover from the plaintiff in the execution the price paid with interest and the costs and disbursements of the eviction suit.

## RCW 6.21.130

# RCW 6.23 (redemption)

- (1) Real property sold subject to redemption, as provided in RCW 6.21.080, or any part thereof separately sold, may be redeemed by the following persons, or their successors in interest:
  - (a) The judgment debtor, in the whole or any part of the property separately sold.
  - (b) A creditor having a lien by judgment, decree, deed of trust, or mortgage, on any portion of the property, or any portion of any part thereof, separately sold, subsequent in priority to that on which the property was sold. The persons mentioned in this subsection are termed redemptioners.
- (2) As used in this chapter, the terms “judgment debtor,” “redemptioner,” and “purchaser” refer also to their respective successors in interest.

- RCW 6.23.010

## RCW 6.23.020(1)

- (1) Unless redemption rights have been precluded pursuant to RCW 61.12.093 et seq., the judgment debtor or any redemptioner may redeem the property from the purchaser at any time (a) within eight months after the date of the sale if the sale is pursuant to judgment and decree of foreclosure of any mortgage executed after June 30, 1961, which mortgage declares in its terms that the mortgaged property is not used principally for agricultural or farming purposes, and in which complaint the judgment creditor has expressly waived any right to a deficiency judgment, or (b) otherwise within one year after the date of the sale.

# RCW 6.23.020(2) (redemption price)

(2) The person who redeems from the purchaser must pay: (a) The amount of the bid, with interest thereon at the rate provided in the judgment to the time of redemption, together with (b) the amount of any assessment or taxes which the purchaser has paid thereon after purchase, and like interest on such amount from time of payment to time of redemption, together with (c) any sum paid by the purchaser on a prior lien or obligation secured by an interest in the property to the extent the payment was necessary for the protection of the interest of the judgment debtor or a redemptioner, and like interest upon every payment made from the date of payment to the time of redemption, and (d) if the redemption is by a redemptioner and if the purchaser is also a creditor having a lien, by judgment, decree, deed of trust, or mortgage, prior to that of the redemptioner, other than the judgment under which such purchase was made, the redemptioner shall also pay the amount of such lien with like interest: PROVIDED, HOWEVER, That a purchaser who makes any payment as mentioned in (c) of this subsection shall submit to the sheriff the affidavit required by RCW 6.23.080, and any purchaser who pays any taxes or assessments or has or acquires any such lien as mentioned in (d) of this subsection must file the statement required in RCW 6.23.050 and provide evidence of the lien as required by RCW 6.23.080.

# RCW 6.23.030 (redemption period and notice)

(1) If the property is subject to a homestead as provided in chapter 6.13 RCW, the purchaser, or the redemptioner if the property has been redeemed, shall send a notice, in the form prescribed in subsection (3) of this section, at least forty but not more than sixty days before the expiration of the judgment debtor's redemption period both by regular mail and by certified mail, return receipt requested, to the judgment debtor or debtors and to each of them separately, if there is more than one judgment debtor, at their last known address or addresses and to "occupant" at the property address. The party who sends the notice shall file a copy of the notice with an affidavit of mailing with the clerk of the court and deliver or mail a copy to the sheriff.

- (2) Failure to comply with this section extends the judgment debtor's redemption period six months. If the redemption period is extended, no further notice need be sent. Time for redemption by redemptioners shall not be extended.
- (3) The notice and affidavit of mailing required by subsection (1) of this section shall be in substantially the following form:

Wash. Rev. Code Ann. § 6.23.030 (West)

# RCW 6.23.040 (time for redemption)

- (1) If property is redeemed from the purchaser by a redemptioner, as provided in RCW 6.23.020, another redemptioner may, within sixty days after the first redemption, redeem it from the first redemptioner. The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty days after the last redemption, and such sixty-day redemption periods may extend beyond the period prescribed in RCW 6.23.020 for redemption from the purchaser.
- (2) The judgment debtor may also redeem from a redemptioner, but in all cases the judgment debtor shall have the entire redemption period prescribed by RCW 6.23.020, but no longer unless the time is extended under RCW 6.23.030 or 6.23.090. If the judgment debtor redeems, the effect of the sale is terminated and the estate of the debtor is restored.
- (3) A redemptioner may redeem under this section by paying the sum paid on the last previous redemption with interest at the rate of eight percent per annum, and the amount of any assessments or taxes which the last previous redemptioner paid on the property after redeeming, with like interest, and the amount of any liens by judgment, decree, deed of trust, or mortgage, other than the judgment under which the property was sold, held by the last redemptioner, prior to his or her own, with interest. A judgment debtor who redeems from a redemptioner under this section must make the same payments as are required to effect a redemption by a redemptioner, including any lien by judgment, decree, deed of trust, or mortgage, other than the judgment under which the property was sold, held by the redemptioner. A redemptioner who pays any taxes or assessments, or has or acquires any such lien as herein mentioned, must file a statement as required under RCW 6.23.050.
- Wash. Rev. Code Ann. § 6.23.040 (West)

# RCW 6.23.060

- If no redemption is made within the redemption period prescribed by RCW 6.23.020 or within any extension of that period under any other provision of this chapter, the purchaser is entitled to a sheriff's deed; or, if so redeemed, whenever sixty days have elapsed and no other redemption has been made or notice given operating to extend the period for re-redemption, and the time for redemption by the judgment debtor has expired, the last redemptioner is entitled to receive a sheriff's deed as provided in RCW 6.21.120.

Wash. Rev. Code Ann. § 6.23.060 (West)

# RCW 6.32.010 Starting supplemental proceedings

- (1) At any time within ten years after entry of a judgment for the sum of twenty-five dollars or over, unless the time is extended in accordance with RCW 6.17.020(3), upon application by the judgment creditor such court or judge may, by an order, require the judgment debtor to appear at a specified time and place before the judge granting the order, or a referee appointed by the judge, to answer concerning the same.
- (2) Except as provided in subsection (4) of this section, the judge to whom application is made under this chapter may, if it is made to appear to him or her by the affidavit of the judgment creditor, his or her agent or attorney that there is danger of the debtor absconding, order the sheriff to arrest the debtor and bring him or her before the judge granting the order. Upon being brought before the judge, he or she may be ordered to enter into a bond, with sufficient sureties, that he or she will attend from time to time before the judge or referee, as shall be directed, during the pendency of the proceedings and until the final termination thereof.
- (3) If the judgment debtor or other persons against whom the special proceedings are instituted has been served with these proceedings, the plaintiff shall be entitled to costs of service, notary fees, and an appearance fee of twenty-five dollars. If the judgment debtor or other persons fail to answer or appear, the plaintiff shall additionally be entitled to reasonable attorney fees. If a plaintiff institutes special proceedings and fails to appear, a judgment debtor or other person against whom the proceeding was instituted who appears is entitled to an appearance fee of twenty-five dollars and reasonable attorney fees.
- (4) A plaintiff may not seek a warrant for the arrest of a judgment debtor for any act or failure to act that arises out of or relates to a judgment for medical debt, unless the act or failure to act constitutes a crime under state law.
- Wash. Rev. Code Ann. § 6.32.010 (West)

# RCW 6.32.015, .030 (third parties examined)

- At any time within ten years after entry of a judgment for a sum of twenty-five dollars or over, unless the time is extended in accordance with RCW 6.17.020(3), upon application by the judgment creditor such court or judge may, by order served on the judgment debtor, require such debtor to answer written interrogatories, under oath, in such form as may be approved by the court. No such creditor shall be required to proceed under this section nor shall he or she waive his or her rights to proceed under RCW 6.32.010 by proceeding under this section.

Wash. Rev. Code Ann. § 6.32.015 (West)

- Any person may be made a party to a supplemental proceeding by service of a like order in like manner as that required to be served upon the judgment debtor, and upon proof by affidavit or otherwise, to the satisfaction of the judge, that execution has been issued and return made thereon wholly or partially unsatisfied, and also that any person or corporation has personal property of the judgment debtor of the value of twenty-five dollars or over, or is indebted to him or her in said amount, or is holding the title to real estate for the judgment debtor, or has knowledge concerning the property interests of the judgment debtor, the judge may make an order requiring such person or corporation, or an officer thereof, to appear at a specified time and place before him or her, or a referee appointed by him or her, and answer concerning the same. RCW 6.32.030

# RCW 6.32.040, .050 (questioning witnesses)

- An order requiring a person to attend and be examined, made pursuant to any provision of this chapter, must require him or her so to attend and be examined either before the judge to whom the order is returnable or before a referee designated therein. Where the examination is taken before a referee, he or she must certify to the judge to whom the order is returnable all of the evidence and other proceedings taken before him or her.

Wash. Rev. Code Ann. § 6.32.040 (West)

- Upon an examination made under this chapter, the answer of the party or witness examined must be under oath. A corporation must attend by and answer under the oath of an officer thereof, and the judge may, in his or her discretion, specify the officer. Either party may be examined as a witness in his or her own behalf, and may produce and examine other witnesses as upon the trial of an action. The judge or referee may adjourn any proceedings under this chapter, from time to time, as he or she thinks proper.

Wash. Rev. Code Ann. § 6.32.050 (West)

# RCW 6.32.070 (debtor of judgment debtor)

At any time after the commencement of a special proceeding authorized by this chapter, and before the appointment of a receiver therein, or the extension of a receivership thereto, the judge by whom the order or warrant was granted or to whom it is made returnable, may in his or her discretion upon proof by affidavit to his or her satisfaction that a person or corporation is indebted to the judgment debtor, and upon such notice given to such person or corporation as he or she deems just, or without notice make an order permitting the person or corporation to pay the sheriff designated in the order a sum on account of the alleged indebtedness not exceeding the sum which will satisfy the execution. A payment thus made is to the extent thereof a discharge of the indebtedness except as against a transferee from the judgment debtor in good faith, and for a valuable consideration, of whose rights the person or corporation had actual or constructive notice when the payment was made.

Wash. Rev. Code Ann. § 6.32.070 (West)

# RCW 6.32.080 (order directing payment to sheriff)

Where it appears from the examination or testimony taken in the special proceedings authorized by this chapter that the judgment debtor has in his or her possession or under his or her control money or other personal property belonging to him or her, or that one or more articles of personal property capable of manual delivery, his or her right to the possession whereof is not substantially disputed, are in the possession or under the control of another person, the judge by whom the order or warrant was granted, or to whom it is returnable, may in his or her discretion, and upon such notice given to such persons as he or she deems just, or without notice, make an order directing the judgment debtor, or other person, immediately to pay the money or deliver the articles of personal property to a sheriff designated in the order, unless a receiver has been appointed or a receivership has been extended to the special proceedings, and in that case to the receiver.

Wash. Rev. Code Ann. § 6.32.080 (West)

# RCW 6.32.085 (charging order)

If it appears from the examination or testimony taken in the special proceedings authorized by this chapter that the judgment debtor owns an interest in a partnership, the judge who granted the order or warrant or to whom it is returnable may in his or her discretion, upon such notice to other partners as the judge deems just, and to the extent permitted by Title 25 RCW, (1) enter an order charging the partnership interest with payment of the judgment, directing that all or any part of distributions or other amounts becoming due to the judgment debtor, other than earnings as defined in RCW 6.27.010, be paid to a receiver if one has been appointed, otherwise to the clerk of the court that entered the judgment, for application to payment of the judgment in the same manner as proceeds from sale on execution and, in aid of the charging order, the court may make such other orders as a case requires, or (2) enter an order directing sale of the partnership interest in the same manner as personal property is sold on execution.

Wash. Rev. Code Ann. § 6.32.085 (West)

# RCW 6.32.090-.100 (sheriff powers)

- If the sheriff to whom money is paid or other property is delivered, pursuant to an order made as prescribed in RCW 6.32.080, does not then hold an execution upon the judgment against the property of the judgment debtor, he or she has the same rights and power, and is subject to the same duties and liabilities with respect to the money or property, as if the money had been collected or the property had been levied upon by him or her by virtue of such an execution, except as provided in RCW 6.32.100.

Wash. Rev. Code Ann. § 6.32.090 (West)

- Unless a receiver has been appointed or extended with respect to money or property in the hands of the sheriff, the judge may direct the sheriff to apply the money, the property, or the proceeds of the property, upon an execution in favor of the judgment creditor issued either before or after the payment or delivery to the sheriff.

Wash. Rev. Code Ann. § 6.32.100 (West)

# RCW 6.32.110 (surplus)

Where money is paid or property is delivered as prescribed in RCW 6.32.070, 6.32.080, 6.32.090, and 6.32.100 and afterwards the special proceeding is discontinued or dismissed, or the judgment is satisfied without resorting to the money or property, or a balance of the money or of the proceeds of the property, or a part of the property remains in the sheriff's or receiver's hands after satisfying the judgment and the costs and expenses of the special proceeding, the judge must make an order directing the sheriff or receiver to pay the money or deliver the property so remaining in his or her hands to the debtor, or to such other person as appears to be entitled thereto, upon payment of his or her fees and all other sums legally chargeable against the same.

Wash. Rev. Code Ann. § 6.32.110 (West)

# RCW 6.32.120 (enjoining transfer), .150 (termination)

The judge by whom the order or warrant was granted or to whom it is returnable may make an injunction order restraining any person or corporation, whether a party or not a party to the special proceeding, from making or suffering any transfer or other disposition of or interference with the property of the judgment debtor or the property or debt concerning which any person is required to attend and be examined, until further direction in the premises. Such an injunction may be made simultaneously with the order or warrant by which the special proceeding is instituted, and upon the same papers or afterwards, upon an affidavit showing sufficient grounds therefor. The judge or court may, as a condition of granting an application to vacate or modify the injunction order require the applicant to give security in such sum and in such manner as justice requires.

Wash. Rev. Code Ann. § 6.32.120 (West)

A special proceeding instituted as prescribed in this chapter may be discontinued at any time upon such terms as justice requires, by an order of the judge made upon the application of the judgment creditor. Where the judgment creditor unreasonably delays or neglects to proceed, or where it appears that the judgment has been satisfied, the special proceedings may be dismissed upon like terms by a like order made upon the application of the judgment debtor, or of plaintiff in a judgment creditor's action against the debtor, or of a judgment creditor who has instituted either of the special proceedings authorized by this chapter.

Wash. Rev. Code Ann. § 6.32.150 (West)

# RCW 6.32.160 (costs to creditor), .170 (costs to debtor)

- The judge may make an order allowing to the judgment creditor a fixed sum as costs, consisting of his or her witness fees and referee's fees and other disbursements, and of a sum in addition thereto not exceeding twenty-five dollars, and directing the payment thereof out of any money which has come or may come to the hands of the receiver or of the sheriff within a time specified in the order.

Wash. Rev. Code Ann. § 6.32.160 (West)

- Where the judgment debtor or other person against whom the special proceeding is instituted has been examined, and property applicable to the payment of the judgment has not been discovered, the judge may make an order allowing him or her a sum, not to exceed twenty-five dollars, as costs, provided that any such sum so allowed the judgment debtor, shall be set off against the amount due the judgment creditor on his or her judgment.

Wash. Rev. Code Ann. § 6.32.170 (West)

# RCW 6.36 (foreign judgments)

- As used in this chapter: (1) “Foreign judgment” means any judgment, decree or order of a court of the United States or of any state or territory which is entitled to full faith and credit in this state.
- (2) “Register” means to file a foreign judgment in a court of this state.
- (3) “Levy” means to take control of or create a lien upon property under any judicial writ or process whereby satisfaction of a judgment may be enforced against such property.
- (4) “Judgment debtor” means the party against whom a foreign judgment has been rendered.

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Wash. Rev. Code Ann. § 6.36.010 (West)

# RCW 6.36.025

- (1) A copy of any foreign judgment authenticated in accordance with the act of congress or the statutes of this state may be filed in the office of the clerk of any superior court of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the superior court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, set-offs, counterclaims, cross-complaints, and proceedings for reopening, vacating, staying, or extending as a judgment of a superior court of this state and may be enforced, extended, or satisfied in like manner.
- (2) Alternatively, a copy of any foreign judgment (a) authenticated in accordance with the act of congress or the statutes of this state, and (b) within the civil jurisdiction and venue of the district court as provided in RCW 3.66.020, 3.66.030, and 3.66.040, may be filed in the office of the clerk of any district court of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, set-offs, counterclaims, cross-complaints, and proceedings for reopening, vacating, staying, transcribing, or extending as a judgment of a district court of this state, and may be enforced, transcribed, extended, or satisfied in like manner.
- (3) The lien of any judgment filed under subsection (1) or (2) of this section shall be governed by chapter 4.56 RCW and RCW 6.17.020.
- Wash. Rev. Code Ann. § 6.36.025 (West)

# RCW 6.36.035

- (1) At the time of the filing of the foreign judgment, the judgment creditor or the judgment creditor's lawyer shall make and file with the clerk of court an affidavit setting forth the name and last known post office address of the judgment debtor, the judgment creditor, and the filing and expiration date of the judgment in the originating jurisdiction.
- (2) Promptly upon the filing of the foreign judgment and the affidavit, the judgment creditor shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer if any in this state. In addition, the judgment creditor shall file proof of mailing with the clerk.
- (3)(a) No execution or other process for enforcement of a foreign judgment filed in the office of the clerk of a superior court shall be allowed until ten days after the proof of mailing has been filed with the clerk by the judgment creditor.
- (b) No execution or other process for enforcement of a foreign judgment filed in the office of the clerk of a district court shall be allowed until fourteen days after the proof of mailing has been filed with the clerk by the judgment creditor.
- (c) Nothing in this section may be interpreted to extend the expiration date of a foreign judgment beyond the expiration date under the laws of the jurisdiction where the judgment originated.
- Wash. Rev. Code Ann. § 6.36.035 (West)

# RCW 6.36.045 (grounds for stay, foreign judgment)

- (1)(a) If the judgment debtor shows the superior court of any county that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.
- (b) If the judgment debtor shows the superior court of any county any ground upon which enforcement of a judgment of a superior court of any county of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.
- (2)(a) If the judgment debtor shows the district court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.
- (b) If the judgment debtor shows the district court any ground upon which enforcement of a judgment of a district court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.
- Wash. Rev. Code Ann. § 6.36.045 (West)

# Executions: power of district courts

- Unless otherwise expressly provided, all provisions of this chapter governing execution against personal property apply to proceedings before district courts of this state, but the district courts shall not have power to issue writs of execution against real property or any interest in real property or against a vendor's interest in a real estate contract.
- RCW § 6.17.010

## Creditor's Checklist, see Rombauer, 28 WAPRAC § 7.42 (largely quoted below)

1. Ascertain when the judgment was entered, whether execution and sale procedures can be completed during its lifetime, and whether any stay of enforcement is in effect.
2. Determine the amount due on the judgment, including interest, fees and costs.
3. Try to identify nonexempt personal property of the judgment debtor that may be reached by execution in sufficient amount to justify the expense of execution; determine whether exempt property has value in excess of the exemption. Check for superior claims against personal property that may decrease debtor's equity.
4. If sufficient personal property cannot be found, try to identify nonexempt real property; if property is identified, try to determine whether it is a homestead; if it is subject to a homestead claim, determine whether it may have value in excess of the exemption. Check for existing liens and interests that may decrease debtor's equity.
5. If levy on any kind of real property is to be directed, prepare the required special affidavit, file a copy with the clerk at the time of obtaining the writ of execution and mail a copy to the judgment.
6. To guard against possible liabilities for levy on another's personal property, check for superior claims against property on which levy is contemplated.

# Creditor's Checklist (2)

7. If other than a routine execution will be necessary, check with the sheriff's office to inquire about fees and any special requirements of that office.
8. Obtain a writ of execution from the clerk's office and deliver it to the sheriff with information about the judgment debtor's property to be levied on, together with a check for the sheriff's fees<sup>2</sup> and either a bond if personal property is to be levied on or the special affidavit required if real property is to be levied on. If exempt property is to be levied on for excess value, follow required appraisal procedures.
9. From the sheriff, obtain the sale date and required copies of the sheriff's notice of sale to permit giving required notices.
10. If an exemption is claimed before or after the sheriff's levy, consider its validity, and if necessary, either follow an appropriate objection procedure or direct the sheriff to release the property.
11. Attend the sale and bid if the judgment creditor so desires. Unless the judgment creditor or attorney identifies prospective bidders and persuades them to attend, there will probably not be another bidder at the sale.

## Creditor's Checklist (3)

12. After the sheriff returns the writ to the clerk with a report of proceedings under it, receive the proceeds if a third party was the successful purchaser; satisfy the judgment if it has been wholly paid from either third party proceeds or by judgment creditor's bidding in the full amount of the judgment. If the judgment has not been fully paid, start again with step 2 above.

13. If real property is sold, schedule a hearing for confirmation.

14. If real property is sold subject to redemption, give notice of redemption rights if required; if there is no redemption, obtain a sheriff's deed from the sheriff at the end of the redemption period.

# Thank you for your courtesies

- I hope you find this helpful. It is not intended to be exhaustive, but it is intended to provide you with a roadmap, albeit with a few details to fill in, to the principal means of collecting on judgments, an often arduous task.
- Milt Rowland
- Law Office of Milton G. Rowland
- 1517 W. Broadway, Spokane, WA 99201
- (509) 251-8606
- [milt@spokanelitigation.com](mailto:milt@spokanelitigation.com)