

CHAPTER 3000. JUDGMENTS

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Subchapter A. TRANSFER OF JUDGMENTS TO OTHER COUNTIES

Rule

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Rule 3001. Definition.

As used in this chapter

“judgment” means a judgment or order requiring the payment of money or adjudicating the right to possession in an action of replevin, including a final or interlocutory order for the payment of costs entered in any court which is subject to these rules, either originally or upon transcript or certification from another court within the same county.

Source

The provisions of this Rule 3001 adopted March 30, 1960, effective November 1, 1960; amended June 23, 1975, effective October 1, 1975, 5 Pa.B. 1829; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (227323).

Rule 3002. Transfer to another county.

(a) A judgment may be transferred to another county by filing of record a certified copy of all the docket entries in the action and a certification of the amount of the judgment.

(b) The prothonotary of the court to which a judgment is transferred shall forthwith enter it in the appropriate docket and in the judgment index against the defendant.

(c) Any party in interest may at any time file with the court to which a judgment has been transferred a certified copy of all or any part of any of the record, testimony or exhibits in the original action.

Source

The provisions of this Rule 3002 adopted March 30, 1960, effective November 1, 1960; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial page (227323).

Rule 3003. Execution. Lien. Revival.

When a judgment is transferred to another county, execution and revival of the judgment may be had in the transferee county, except that no execution may issue in the transferee county directed to the sheriff of another county.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3010. Acts of Assembly not suspended. [Rescinded].

Official Note: The Act of 1945 prescribing venue of a petition to open a confessed judgment and preserved by this rule has been repealed. See Rule 2959(a)(1).

Source

The provisions of this Rule 3010 rescinded March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial page (213386).

Rule 3011. Acts of Assembly suspended. [Rescinded].

Official Note: Former Rule 3011 preserved an Act of Assembly which was subsequently repealed.

Source

The provisions of this Rule 3011 rescinded March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial page (213386).

Rule 3020. Definition.

As used in this chapter, “judgment” means a judgment, order or decree requiring the payment of money entered in any court which is subject to these rules, including a final or interlocutory order for payment of costs, except a judgment against the Commonwealth or a political subdivision.

Official Note: Political subdivision includes a municipal or other local authority. See Definition Rule 76.

Source

This Rule 3020 adopted December 19, 2003, effective July 1, 2004, 34 Pa.B. 22.

Rule 3021. Verdict. Order. Judgment. Entry in Judgment Index.

- (a) The prothonotary shall immediately enter in the judgment index
 - (1) a verdict or order for a specific sum of money with the notation “verdict” or “order.” The entry shall state the amount of the verdict or order;

Official Notice: See also Rule 3027(a) governing the entry by the prothonotary of a writ of revival.

- (2) an order for equitable relief, interlocutory or final; and
- (3) a judgment, whether entered by the court, on order of court or on praecipe of a party. The entry shall state the amount of the judgment if for a sum certain.

Official Note: Section 8142(e) of the Judicial Code, 42 Pa.C.S. § 8142(e), requires the prothonotary to “note on the dockets in such office where each verdict, judgment, order, instrument or writ creating a lien against real property is entered, the time it was recorded, rendered, left for filing, or issued.”

The rule presumes a channel of communication between the court and prothonotary so that the prothonotary may “immediately” docket a judgment entered by the court.

(b) In all cases, the entry in the judgment index shall state the names of the parties, the number of the case, and the date and time of entry in the judgment index.

Source

This Rule 3021 adopted December 19, 2003, effective July 1, 2004, 34 Pa.B. 22; amended November 2, 2007, effective January 1, 2008, 37 Pa.B. 6201. Immediately preceding text appears at serial pages (316406) and (307569).

Rule 3022. Verdict or Order. Lien. Duration.

(a) A verdict or order for a specific sum of money when entered in the judgment index shall create a lien on real property located within the county, title to which at the time of entry is recorded in the name of the person against whom the verdict or order was rendered. The lien shall continue for five years unless the verdict is sooner reduced to judgment or the court sooner awards a new trial or enters a judgment notwithstanding the verdict.

Official Note: An order is defined by Section 102 of the Judicial Code, 42 Pa.C.S. § 102, to include, inter alia, a decision, a decree and an adjudication.

Section 8142(b) of the Judicial Code, 42 Pa.C.S. § 8142(b), provides for the endorsement of time on recorded verdicts.

“Overdue support obligations of this or any other state which are on record at the county domestic relations section shall constitute a lien by operation of law against all real property owned by the obligor within the county as provided in subsection (d.1).” See Section 4352(d) of the Domestic Relations Code, 23 Pa.C.S. § 4352(d).

(b)(1) Except as provided by paragraph (2), the lien of a verdict or order for a specific sum of money shall have the priority prescribed by Section 8141 of the Judicial Code from the time the verdict or order is entered in the judgment index.

(2) Paragraph (1) shall not affect the priority of the lien of a verdict or order for a specific sum of money created prior to the effective date of this rule.

Official Note: The effective date of this rule was July 1, 2004.

For the priority of the lien of a verdict or order governed by subdivision (b)(2), see Section 8141 of the Judicial Code.

(3) Section 8141(3), (4) and (5) of the Judicial Code, 42 Pa.C.S. § 8141(3), (4) and (5), are suspended in accordance with Article V, Section

10(c) of the Constitution of 1968 and Section 1722(b) of the Judicial Code, 42 Pa.C.S. § 1722(b), insofar as they are inconsistent with this rule.

Official Note: Section 8141(3) of the Judicial Code provides that the lien of a verdict for a specific sum of money shall have priority from the time it is recorded by the court.

Section 8141(4) of the Judicial Code provides that the lien of an adverse judgment and other orders shall have priority from the time it is rendered.

Section 8141(5) of the Judicial Code provides that the lien of an amicable judgment shall have priority from the time the instrument on which it is entered is left for entry.

Source

This Rule 3022 adopted December 19, 2003, effective July 1, 2004, 34 Pa.B. 22; amended October 15, 2004, effective immediately, 34 Pa.B. 5889; amended November 2, 2007, effective January 1, 2008, 37 Pa.B. 6201; amended January 26, 2010, effective immediately, 40 Pa.B. 700. Immediately preceding text appears at serial pages (331715) to (331716).

Rule 3023. Judgment. Lien. Duration.

(a) Except as provided by subdivision (b), a judgment when entered in the judgment index shall create a lien on real property located in the county, title to which at the time of entry is recorded in the name of the person against whom the judgment is entered.

Official Note: See Rule 3001 et seq. for the transfer of a judgment to another county.

See Rule 3027 for the lien of the writ of revival or of the agreement to revive and Rule 3031.1 for the lien of a judgment of revival.

(b) A judgment upon a verdict or an order, when entered in the judgment index, shall

(1) continue the lien upon real property located in the county which is subject to the lien of the verdict or order upon which the judgment is entered, and

Official Note: The lien of a verdict or order dates from the time the verdict or order is entered in the judgment index. See Rule 3022(a).

(2) create a lien upon all other real property located in the county, title to which at the time of entry in the judgment index is recorded in the name of the person against whom the judgment is entered.

(3) Section 8141(3), (4) and (5) of the Judicial Code, 42 Pa.C.S. § 8141(3), (4) and (5), are suspended in accordance with Article V, Section 10(c) of the Constitution of 1968 and Section 1722(b) of the Judicial Code, 42 Pa.C.S. § 1722(b), insofar as they are inconsistent with this rule.

Official Note: Section 8141(3) of the Judicial Code provides that the lien of a verdict for a specific sum of money shall have priority from the time it is recorded by the court.

Section 8141(4) of the Judicial Code provides that the lien of an adverse judgment and other orders shall have priority from the time it is rendered.

Section 8141(5) of the Judicial Code provides that the lien of an amicable judgment shall have priority from the time the instrument on which it is entered is left for entry.

(c) The lien shall continue for five years from the date the judgment was entered in the judgment index unless the judgment is sooner discharged or the lien is sooner revived.

Official Note: A judgment lien may be revived in the manner provided by Rule 3025 et seq.

Source

The provisions of this Rule 3023 adopted December 19, 2003, effective July 1, 2004, 34 Pa.B. 22; amended November 2, 2007, effective January 1, 2008, 37 Pa.B. 6201; amended January 26, 2010, effective immediately, 40 Pa.B. 700. Immediately preceding text appears at serial pages (331716) to (331717).

Subchapter B. REVIVAL OF JUDGMENT LIENS

Rule	
3025.	Commencement of proceedings. Venue.
3025.1	Consolidation of Judgments.
3026.	Parties. Generally.
3026.1	Parties. Joint Defendants.
3026.2.	Parties. Terre-Tenants.
3026.3.	Revival of Lien of Judgment as to Property of Terre-Tenants.
3027.	Writ of Revival. Entry. Lien.
3028.	Service of the Writ.
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3030.	Pleading. Further Proceedings. Continuance of Lien.
3031.	Judgment upon Default or Admission. Assessment of Damages.
3031.1.	Judgment of Revival. Lien.

Rule 3025. Commencement of proceedings. Venue.

A proceeding to revive which continues or creates the lien of a judgment may be commenced by filing with the prothonotary of the county in which the judgment has been entered

- (1) a praecipe for a writ of revival substantially the form provided by Rule 3032, or
- (2) an agreement to revive substantially the form provided by Rule 3034.

Official Note: Section 5526(1) of the Judicial Code, 42 Pa.C.S. § 5526(1), requires that an action for revival of a judgment lien on real property must be commenced within five years. See also Section 605 of the Goods and Services Installment Sales Act, 69 P. S. § 1605(b), requiring that a proceeding for revival of a judgment lien subject to the Act and entered by confession be commenced within one year from the lapse of the lien.

The revival of a judgment lien pursuant to the Commercial Real Estate Broker Lien Act is governed by these rules. See 68 P. S. § 1062.

A lien arising from an overdue support obligation retains its priority “without renewal or revival.” See Section 4352(d.1)(5)(ii) of the Domestic Relations Code, 23 Pa.C.S. § 4352(d.1)(5)(ii).

The following statutes provide for revival or continuation of liens by filing with the prothonotary a suggestion of nonpayment and an averment of default:

Section 9 of the Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7143 relating to municipal claims for taxes, water rents or rates, lighting rates, power rates and sewer rates.

Section 15 of the Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7183, providing for continuation of liens on municipal and tax claims;

Section 1404 of the Act of April 9, 1929, P. L. 343, as amended, 72 P. S. § 1404, providing for revival of liens for state taxes, unpaid bonus, interest and penalties;

See also statutory provisions relating to revival of municipal claims and liens, 53 P. S. § 7391 et seq.

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Tax liens required to be filed by the Department of Revenue continue without the necessity of revival. See the Act of April 9, 1929, P. L. 343, No. 176, § 1404.1, added by Section 5 of the Act of December 12, 1994, P. L. 1015, No. 138, 72 P. S. § 1404.1.

Source

The provisions of this Rule 3025 amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial pages (227324) and (213387).

Rule 3025.1. Consolidation of Judgments.

(a) A judgment creditor who holds two or more judgments entered against the same person in the same county may consolidate the judgments by filing

(1) a single praecipe requesting the issuance of a single consolidated writ of revival, or

(2) an agreement to enter a consolidated judgment and revive the lien thereof.

(b) The praecipe or the agreement shall contain the court, docket number and amount claimed to be due on each judgment being consolidated.

(c) The consolidated judgment shall be entered as of the docket number of one of the judgments being consolidated and shall include the amounts due on all the consolidated judgments.

(d) The court and docket number of the consolidated judgment shall be noted on the docket of each original judgment substantially as follows: "Consolidated as part of the consolidated judgment entered at Docket No. _____ of the Court of Common Pleas of _____ County."

Official Note: Consolidation does not affect the lien priority of each judgment consolidated.

Source

The provisions of this Rule 3025.1 adopted December 19, 2003, effective July 1, 2004, 34 Pa.B. 22.

Rule 3026. Parties. Generally.

(a) The caption shall contain the name of the original defendant and any terre-tenant against whom the plaintiff seeks to revive the lien of the judgment.

Official Note: The terms "plaintiff" and "defendant" as used in the rules governing judgment liens and revival of judgments refer generally to the judgment creditor and judgment debtor, respectively. Thus, a defendant who holds a judgment against the plaintiff on a counterclaim would be a plaintiff for the purpose of these rules. See also Definition Rule 3101(a).

(b) If the judgment has been assigned or transferred, the caption shall contain the name of the original judgment plaintiff and the name of the real party in interest.

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Official Note: See Rule 3026.2 governing terre-tenants as parties and Rule 3026.3 governing revival against a terre-tenant.

As to joinder of personal representatives of a deceased defendant, see Section 3382 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 3382.

Source

The provisions of this Rule 3026 adopted October 1, 1964, effective April 1, 1965; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial page (213387).

Rule 3026.1. Parties. Joint Defendants.

(a) Except as provided by subdivision (b), if there is a judgment against two or more joint defendants, no revival of the lien of the judgment shall be effective against any of such defendants unless all joint defendants are made parties to the revival proceedings.

(b) If all or fewer than all joint defendants agree to be bound, the revival shall be effective against all of the defendants so agreeing.

Official Note: This rule does not apply where defendants are jointly and severally liable or severally liable only.

Source

The provisions of this Rule 3026.1 adopted December 19, 2003, effective July 1, 2004, 34 Pa.B. 22.

Rule 3026.2. Parties. Terre-Tenants.

(a) As used in Rule 3025 et seq., a terre-tenant is a person other than the original defendant in whom title to real property subject to a lien provided by the Rules of Civil Procedure has vested.

Official Note: The rules governing the action of mortgage foreclosure use the term “real owner” in a similar sense. See Rule 1144(a)(3).

See the following rules of civil procedure providing for liens upon real property: Rule 3022 (lien of a verdict or order), Rule 3023 (lien of a judgment), Rule 3027 (lien of a writ of revival or an agreement to revive), Rule 3131.1 (lien of a judgment of revival) and Rule 3104 (lien of a writ of execution).

(b) The term “terre-tenant” shall not include

(1) any person claiming under or whose claim of title passes through a deed which is not recorded in the county where the real property is located, or

(2) any person claiming under or through a deceased defendant or terre-tenant whose will has not been filed with, or letters of administration on whose estate have not been issued by, the register of wills or orphans’ court of such county.

(c) Any person claiming under or through a deceased defendant or a deceased terre-tenant, who was not a resident of the county at the time of death, may qualify as a terre-tenant under this rule by recording in the office of the recorder of deeds of the county where the real property is located,

- (1) a certified copy of the will of the decedent, or,
- (2) if the decedent died intestate, a declaration of interest accompanied by a certificate of the register of wills or probate court or officer of the county, state or country in which the decedent resided at the time of death that letters of administration have been issued in the estate of the decedent.

Source

The provisions of this Rule 3026.2 adopted December 19, 2003, effective July 1, 2004, 34 Pa.B. 22; amended November 2, 2007, effective January 1, 2008, 37 Pa.B. 6201. Immediately preceding text appears at serial pages (302565) to (302566).

Rule 3026.3. Revival of Lien of Judgment as to Property of Terre-Tenant.

(a) Except as provided by subdivision (b), if an interest in real property subject to a lien of a judgment has been acquired by a terre-tenant, then the lien of the judgment on the property shall be revived only if the terre-tenant within the five-year period of Rule 3023(c) or Rule 3031.1(a) joins in an agreement to revive or is made a party to the writ of revival.

Official Note: The revival of a judgment lien continues or creates a lien upon real property. See Rule 3025.

(b) If a writ of revival or an agreement to revive is entered in the judgment index against the defendant at a time when a terre-tenant's deed or other evidence of title is of record, but without the joinder of the terre-tenant, the lien of the judgment may be revived as to the terre-tenant within five years after the recording of the terre-tenant's deed or other evidence of title by (1) agreement between the plaintiff and the terre-tenant alone or between the plaintiff, defendant and terre-tenant, or (2) a writ of revival issued against the terre-tenant alone, or against the defendant and terre-tenant jointly. The lien shall continue as to the terre-tenant for the same period as it continues against the defendant, when it must be revived against both parties.

Official Note: The mere recording of a terre-tenant's deed or other evidence of title is ineffective to revive a lien as to any part of the property acquired by a terre-tenant without specific revival by agreement or by writ.

For the effect of a judgment of revival against a terre-tenant, see Rules 3027(b)(3) and 3031.1(b).

Source

The provisions of this Rule 3026.3 adopted December 19, 2003, effective July 1, 2004, 34 Pa.B. 22.

Rule 3027. Writ of Revival. Entry. Lien.

(a) Upon issuance of the writ of revival or the filing of an agreement to revive, the prothonotary shall enter it in the judgment index against each defendant and terre tenant named therein.

Official Note: Adopted October 1, 1964, effective April 1, 1965.

(b) The writ or agreement, when entered in the judgment index shall

(1) continue the lien upon real property located in the county which is subject to the lien of the judgment which is sought to be revived,

(2) create a lien upon all other real property located in the county, title to which at the time of entry in the judgment index is recorded in the name of the defendant, and

Official Note: The lien attaches whether or not the real property was owned by the defendant at the time the original judgment was entered in the judgment index or the lien of the judgment was previously revived and whether or not the lien of the judgment had been lost as to the property.

The priority of the lien is preserved only if the praecipe or the agreement is filed within the five-year period prescribed by these rules.

(3) create a lien upon all other real property located in the county, title to which at the time of entry in the judgment index is recorded in the name of a terre-tenant, and which was subject to the lien of the judgment sought to be revived but the lien lapsed prior to the entry of the writ or agreement in the judgment index.

(c) The lien of a writ of revival or of an agreement to revive shall continue for a period of five years from the date on which the writ or agreement was entered in the judgment index.

Source

The provisions of this Rule 3027 adopted October 1, 1964, effective April 1, 1965; amended June 15, 1994, effective July 1, 1994, 24 Pa.B. 3215; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial pages (213387) to (213388).

Rule 3028. Service of the Writ.

(a) The writ shall be served within ninety days after its issuance by the sheriff by handing a copy in the manner provided by Rule 402 or by mailing a copy in the manner provided by Rule 403.

(b) If service cannot be made as provided by subdivision (a), then service may be made

(1) in the manner prescribed by order of court pursuant to Rule 430(a), or

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Official Note: For example, where the Postal Service shows a good address and mail service under subdivision (a) is returned unclaimed, the court pursuant to Rule 430 may permit service by regular mail.

(2) by publication in the manner prescribed by Rule 430(b) upon the filing of an affidavit showing reasonable efforts to make service pursuant to subdivision (a) and the reasons why such service could not be made.

Official Note: A special order of court under Rule 430(a) is not a prerequisite to service by publication under this rule.

Source

The provisions of this Rule 3028 adopted October 1, 1964, effective April 1, 1965; amended through June 20, 1985, effective January 1, 1986 15 Pa.B. 2452; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial page (213388).

Rule 3029. Reissuance and Substitution of Writ.

The writ may be reissued or substituted as in a civil action.

Official Note: See Rule 401(b) governing reissuance and substitution of a writ of summons.

Source

The provisions of this Rule 3029 adopted October 1, 1964, effective April 1, 1965; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial page (213388).

Rule 3030. Pleadings. Further Proceedings. Continuance of Lien.

(a) The writ shall be the equivalent of a complaint in a civil action. The rules relating to a civil action so far as applicable shall govern further proceedings. No counterclaim may be asserted.

(b) Except as provided by subdivision (c), the lien of the writ shall continue during the further proceedings.

(c) If judgment cannot be entered on the writ within a period of five years after the entry of the writ in the judgment index because of the further proceedings, the court before which the further proceedings are pending may enter an order continuing the lien of the writ for a period not exceeding five years. The order shall become effective when entered in the judgment index.

Source

The provisions of this Rule 3030 adopted October 1, 1964, effective April 1, 1965; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended June 15, 1994, effective July 1, 1994, 25 Pa.B. 3215; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial page (213388).

Rule 3031. Judgment upon Default or Admission. Assessment of Damages.

(a) The prothonotary, on praecipe of the plaintiff, shall enter judgment against a defendant or terre tenant for failure within the required time to plead to the writ

or for any relief admitted to be due by the defendant's or terre tenant's pleading. The prothonotary shall assess damages as directed in the praecipe for judgment.

Official Note: See the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. § 520 requiring an affidavit setting forth facts showing that the defendant is not in military service as a prerequisite to the entry of a default judgment.

See Rule 237.1 et seq. which requires a ten-day notice as a prerequisite to the entry of a default judgment.

(b) In all cases the court, on motion of a party, may enter an appropriate judgment against a party upon default or admission.

Source

The provisions of this Rule 3031 adopted October 1, 1964, effective April 1, 1965; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial pages (213388) to (213389).

Rule 3031.1. Judgment of Revival. Lien.

(a) A judgment of revival when entered in the judgment index shall continue or create a lien as provided by Rule 3027(b) governing the lien of a writ of revival. The lien shall continue for five years from the date the judgment was entered in the judgment index unless the judgment is sooner discharged or the lien is sooner revived.

(b) If an interest in real property subject to the lien of a judgment has been acquired by a terre-tenant, a judgment of revival entered against the terre-tenant shall not be a personal judgment against the terre-tenant and shall not extend to any other property of the terre-tenant.

Source

The provisions of this Rule 3031.1 adopted December 19, 2003, effective July 1, 2004, 34 Pa.B. 22.

Subchapter C. FORMS

Rule	
3032.	Praecipe for Writ of Revival. Form.
3033.	Writ of Revival. Form.
3034.	Agreement to Revive. Form.
3048.	Acts of Assembly not Suspended.
3049.	[Rescinded].
3049.1	Abolition of Practice and Procedure Under Repealed Statutes.
3051.	Relief from Judgment of Non Pros.

Rule 3032. Praecipe for Writ of Revival. Form.

The praecipe for writ of revival shall be substantially in the following form:

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(Caption)

PRAECIPE FOR WRIT OF REVIVAL

To the Prothonotary:

Issue writ of revival of lien of judgment entered at _____ and enter it
(Court, Number)
in the judgment index against _____
(Name of Defendant(s))
and _____
(Name of Terre-Tenant(s))
in the amount of \$ _____ with interest from _____ .

Attorney for Plaintiff

Official Note: For the definition of terre-tenant, see Rule 3026.2.

Source

The provisions of this Rule 3032 adopted October 1, 1964, effective April 1, 1965; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial page (213389).

Rule 3033. Writ of Revival. Form.

The writ of revival shall be substantially in the following form:

[CAPTION]

WRIT OF REVIVAL

TO _____ :
(Name of Defendant(s) and Terre- Tenant(s))

- (1) You are notified that the plaintiff has commenced a proceeding to revive the lien of the judgment entered at _____.
(Court, Term, Number)
- (2) The plaintiff claims that the amount due and unpaid is \$ _____ with interest from _____ .
- (3) You are required within twenty (20) days after service of this writ to file an answer or otherwise plead to this writ. If you fail to do so judgment of revival in the amount claimed by the plaintiff may be entered without a hearing and you may lose your property or other important rights.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name of Office)

(Address of Office)

(Telephone Number)

Date: _____

(Name of Prothonotary (Clerk))
By _____
(Deputy)

Official Note: For definition of terre tenant, see Rule 3026.2.

Source

The provisions of this Rule 3033 adopted October 1, 1964, effective April 1, 1965; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial pages (213389) to (213390).

Rule 3034. Agreement to Revive. Form.

The agreement to revive shall be substantially in the following form:

[Caption]

AGREEMENT TO REVIVE

The undersigned hereby agree(s) that the lien of the judgment entered on _____
(Date)
at _____ be revived and authorize(s) the prothonotary to enter in the judg-
(Court, Number)
ment index a judgment of revival in the amount of \$ _____ plus costs.

Signed and dated _____ :

(Defendants(s))

(Terre-Tenant(s))

Official Note: See Rule 3025.1(b) for additional requirements when there is an agreement to consolidate two or more judgments against the same person and revive the lien thereof.

Source

The provisions of this Rule 3034 adopted October 1, 1964, effective April 1, 1965; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial page (213390).

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Rule 3048. Acts of Assembly not Suspended.

The Rules governing the Revival of Judgment Liens shall not be deemed to suspend or affect:

(1) Section 9 of the Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7143;

Official Note: This Section provides for revival of municipal claims for taxes, water rents or rates, lighting rates, power rates and sewer rates.

(2) Section 15 of the Act approved May 16, 1923, P. L. 207, as amended, 53 P. S. 7183 insofar as it authorizes revival of municipal claims by suggestion of nonpayment and averment of default;

(3) Section 1404 of the Fiscal Code of April 9, 1929, P. L. 343 as amended, 72 P. S. 1404;

Official Note: This Section provides for revival of liens for State taxes by the filing of a suggestion of nonpayment and averment of default.

(4) Section 1404.1 of the Act of April 9, 1929, P. L. 343, No. 176, added by Section 5 of the Act of December 12, 1994, P. L. 1015, No. 138, 72 P. S. § 1404.1;

Official Note: This Section provides that tax liens required to be filed by the Department of Revenue are continued without the necessity of revival.

(5) Section 605 of the Act of October 28, 1966, Special Session No. 1, P. L. 55, known as the Goods and Services Installment Sales Act, added by Section 6 of the Act of March 25, 1982, P. L. 199, No. 68, 69 P. S. § 1605;

Official Note: This section requires that a proceeding for revival of a judgment entered by confession, which is subject to the Act, be commenced within one year from the lapse of the lien.

(6) Section 3382 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 3382;

Official Note: Section 3382 provides for the joinder of the personal representative of a decedent as a defendant and for the continuation of the lien on a decedent's real estate.

(7) Section 4352(d) and (d.1) of the Domestic Relations Code, 23 Pa.C.S. § 4352(d) and (d.1);

Official Note: Section 4352(d) imposes a lien upon real property for overdue support and Section 4352(d.1) provides for the lien to retain its priority without renewal or revival.

(8) Section 5526(1) of the Judicial Code, 42 Pa.C.S. § 5526(1);

Official Note: This section requires that an action for revival of a judgment lien must be commenced within five years.

(9) And all other Acts or parts of Acts authorizing special procedures for the revival of judgment liens in favor of the Commonwealth or political subdivisions.

Source

The provisions of this Rule 3048 adopted October 1, 1964, effective April 1, 1965; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial pages (213390) and (243895).

Rule 3049. [Rescinded].

Official Note: The statutory provisions governing revival of judgment liens previously suspended by Rule 3049 have been repealed.

Source

The provisions of this Rule 3049 adopted October 1, 1964, effective April 1, 1965; rescinded December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial page (243895).

Rule 3049.1. Abolition of Practice and Procedure Under Repealed Statutes.

The practice and procedure provided in the following Acts of Assembly which have been repealed by the Judiciary Act Repealer Act (JARA), Act of April 28, 1978, No. 53, are hereby abolished and shall not continue as part of the common law of the Commonwealth:

(1) Sections 1 and 2 of the Act of March 23, 1877, P. L. 34, 12 P. S. §§ 861, 862.

Official Note: The Act of 1877 relating to lien of verdict was repealed by Section 2(a) of JARA, 42 P. S. § 20002(a)(687).

(2) Section 1 of the Act of April 22, 1909, P. L. 112, 12 P. S. § 875(921).

Official Note: The Act of 1909 relating to consolidation of judgments by scire facias was repealed by Section 2(a) of JARA, 42 P. S. § 20002(a).

(3) Sections 2 through 7 inclusive of the Act of July 3, 1947, P. L. 1234, No. 504, known as the Judgment Lien Law, 12 P. S. §§ 878 through 883.

Official Note: The Judgment Lien Law was repealed by Section 2(a) of JARA, 42 P. S. § 20002(a). The repealed sections concerned the property subject to lien and duration of lien (§ 2), the manner of reviving lien and duration of revived lien (§ 3), scire facias as lien (§ 4), revival of lien against person in armed forces (§ 5), service of scire facias and judgment on return of nihil habet (§ 6), and property subject to execution, lien of execution and execution after five years (§ 7).

Source

The provisions of this Rule 3049.1 adopted December 19, 2003, effective July 1, 2004, 34 Pa.B. 22; amended October 15, 2004, effective immediately, 34 Pa.B. 5889. Immediately preceding text appears at serial page (302573).

Rule 3051. Relief from Judgment of Non Pros.

(a) Relief from a judgment of non pros shall be sought by petition. All grounds for relief, whether to strike off the judgment or to open it, must be asserted in a single petition.

(b) Except as provided in subdivision (c), if the relief sought includes the opening of the judgment, the petition shall allege facts showing that

(1) the petition is timely filed,

- (2) there is a reasonable explanation or legitimate excuse for the conduct that gave rise to the entry of judgment of non pros, and
- (3) there is a meritorious cause of action.

Official Note: See Rule 237.3 for special provisions relating to relief from a judgment of non pros entered pursuant to Rule 1037(a).

- (c) If the relief sought includes the opening of the judgment of non pros for inactivity, the petition shall allege facts showing that

Official Note: The “inactivity” covered by this subdivision is governed by and subject to *Jacobs v. Halloran*, 551 Pa. 350, 710 A.2d 1098 (1998).

- (1) the petition is timely filed,
- (2) there is a meritorious cause of action, and
- (3) the record of the proceedings granting the judgment of non pros does not support a finding that the following requirements for entry of a judgment of non pros for inactivity have been satisfied:
 - (i) there has been a lack of due diligence on the part of the plaintiff for failure to proceed with reasonable promptitude,
 - (ii) the plaintiff has failed to show a compelling reason for the delay, and
 - (iii) the delay has caused actual prejudice to the defendant.

Source

The provisions of this Rule 3051 adopted November 19, 1991, effective January 1, 1992, 21 Pa.B. 5638; amended December 2, 1994, effective July 1, 1995, 24 Pa.B. 6259; amended April 5, 2013, effective May 5, 2013, 43 Pa.B. 2136. Immediately preceding text appears at serial pages (363545) to (363546).

**Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS
FOR THE PAYMENT OF MONEY**

- 3101. Definitions. Garnishee. Scope.
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EXPLANATORY COMMENTS ON EXECUTION RULES

To assist the bench and bar in the consideration of the rules on execution, the following comments on the principal features of the rules may be helpful.

1. Scope of the rules.

(a) These rules deal only with execution upon money judgments originally entered in, or by transfer or certification to the Common Pleas Courts, the Municipal Court of Philadelphia, and the County Court of Allegheny County (Rule 3101(a)). The provisions of the Allegheny County Court Act providing that county court judgments shall not constitute liens on real property and providing for transfer to the Common Pleas Court of Allegheny County are not suspended by the rules (Note to Rule 3104(a)). The rules also apply to Orphans' Court judgments under the conformity provisions of the Orphans' Court Act of 1951, 20 P. S. §§ 2080-754, 2080-755 (2080.754, 2080.755), which provides that execution against personal property and attachment execution shall conform to execution issued out of the common pleas courts. Execution against real estate will under the Orphans' Court Act still require certification to the common pleas court. Judgments transferred from a justice of the peace or magistrate's court will no longer require a certification that execution had been issued out

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of the justice of the peace or magistrate's court and returned nulla bona, and the acts of assembly so providing are suspended. (Note to Rule 3103(a)).

(b) The enforcement of judgments against the Commonwealth, political subdivisions or public authorities remains unaffected by the rules and the procedures provided by statute for either mandamus or petition for the assessment of taxes remain unsuspended. (Rule 3101).

2. The writ of execution.

Sweeping changes are made in the form and scope of the writ of execution. The writs of fi. fa., testatum fi. fa., vendex, liberari facias and attachment execution are abolished. There will be only one writ of execution for real and personal property with directions for either levy or attachment or both. (Rules 3102, 3251, 3252). Civil arrest, except in actions for fines and penalties or as punishment for contempt, is suspended. (Rule 3250). Civil arrest before judgment has already been abolished. (Rule 1481). Return days will be abolished and the writ may be reissued as in assumpsit if service or levy is not made within 90 days or a new writ may be issued. (Rule 3106). A new garnishee may be named in a reissued writ. (Rule 3106(c)). Alias and pluries writs are abolished. Successive writs may be issued at the same or different times without a prior return of an outstanding writ as required by former practice. (Rule 3103(d)).

3. Venue and service.

The writ may be issued in any county in which judgment is entered and may be directed to the sheriff of any county in the Commonwealth (Rule 3103(b)) with the single limitation that on transferred judgments the execution may be directed only to the sheriff of the county in which it is issued. (Rule 3103(c)). Under the prior testatum practice, levies could be directed to other counties but attachment execution could not. These rules make no distinction in this respect between levy and attachment and thus broaden the prior testatum practice. (Rule 3103). The transfer of judgments has been simplified by rules providing merely for the filing of a certified copy of the docket entries in the action and a certification of the amount of the judgment. (Rules 3001 to 3011). With this simplified procedure it may be easier to transfer a judgment and issue execution in the transferee county rather than use testatum process. However, the equivalent of the prior testatum practice is still available under the rules.

4. Indexing.

The rules provide for indexing the execution against the defendant. (Rule 3104). There are special indexing provisions authorizing the indexing of the writ as a lis pendens against a garnishee where real property of the defendant is allegedly held in the name of a garnishee. (Rule 3104(c)). This is an extension not only of the indexing but of attachment procedure. A writ directed to another county may be served before indexing if the plaintiff so directs. (Rule 3104(b)).

5. Order of levy or attachment and sale.

These rules eliminate the ambiguity of the Act of 1836 as to the order of levy and sale of personalty and realty. They provide that real or personal property may be levied upon or attached and sold in any order or simultaneously as the plaintiff may direct. (Rules 3107, 3124). On the other hand they give the court broad powers of stay of execution so that the interests of the defendant may be adequately protected. (Rule 3121).

6. Attachment.

Sweeping changes have also been made in attachment procedure both as to the property subject to attachment (Rules 3101(b), 3108) and as to service (Rules 3111, 3112, 3113). Under the prior practice real property could not be attached and the Act of Assembly authorizing attachment of debts, deposits or personal property, pawned, pledged or demised, was strictly construed so that even the contents of a safe deposit box could not be attached but had to be levied upon by writ of fi. fa. These rules provide for execution against the contents of a safe deposit box by force, if necessary, upon petition. (Rule 3110). Execution against partnership interests is simplified by permitting service on the partnership as a garnishee. (Rule 3108(c)). However, the provisions of the Uniform Partnership Act relating to charging orders and limiting sale of the partnership interest are unsuspended. (Rule 3148

(a)(3)). The scope of attachment is also enlarged to include tangible or intangible property of the defendant in the custody, possession, or control of a garnishee. (Rule 3111(b)).

The rules expand attachment procedure to include real estate of the defendant, legal title to which is held in the name of a garnishee. (Rules 3108(e), 3112(a)). They provide for service upon the real owner including substituted service and service by publication. (Rule 3112(b) and (c)). The plaintiff may still proceed as under prior practice to levy upon and sell the interest of the defendant in real property in the name of a garnishee (Rule 3108(f)) and thereafter test the extent of defendant's title by ejectment proceedings; or he may proceed under the Fraudulent Conveyance Act, which is unsuspended. The rules however offer the more expeditious and simplified attachment alternative.

The rules make radical changes in the method of attaching mortgages, judgments or other liens owned by a defendant and secured on real property. They provide a method for the attachment of the debt itself, as well as a separate method of the attachment of the security. (Rules 3101(b)(5), 3108(b), 3108(d), and 3113).

Supplementary proceedings by way of sequestration of rents, principal, interest and income are authorized and the court may order the sheriff to make collection or appoint a sequestrator (Rule 3114) or grant supplementary equitable relief to restrain transfer, etc. (Rule 3118).

Radical changes are also made in connection with the attachment of tangible personal property which under prior practice was restricted to goods pawned, pledged and demised. Under the rules, service of the writ against a garnishee will subject him to the mandate and injunctive order of the writ, restraining him from delivering any property, tangible or intangible, of the defendant which is subject to attachment, to any one except the sheriff or otherwise disposing thereof until further order of the court or discontinuance or termination of the attachment. (Rule 3111(c)).

The rules do not, however, permit the unlimited attachment of tangible personal property. Such property may only be reached by a levy, except in the single situation where the property is in the possession of a third person, not the defendant, who prevents a levy or fails to make the property available to the sheriff for levy. If either of these events occurs, the sheriff may serve the third person as garnishee and the goods in the possession of the garnishee will then be attached. (Rule 3108(a)).

7. Priority of liens.

The prior law as to the lien of levies or attachment remains unchanged. (Rules 3115, 3137). The lien of a levy relates back to the date of delivery of the writ to the sheriff if served during the ninety-day period of validity of the writ. (Rule 3137(a)). Where there are writs of several plaintiffs a levy under one valid writ constitutes a levy under all other writs then in the sheriff's hands or delivered to him before sale or disposition of the proceeds. The other levies may be noted by endorsement although an actual levy may be made if the plaintiff so directs. (Rule 3115(a) and (b)). Where there are several writs in the hands of the sheriff, the withdrawal, abandonment, stay or release of one writ will not affect levy or proceedings on the others. (Rule 3115(c)). The service of a writ of execution upon a garnishee is effective as of the date of service. (Rule 3137(b)). If property which has been attached is improperly disposed of by the garnishee, the law remains as heretofore. The plaintiff has his remedies against the garnishee (Rules 3111(d), 3148(c)), but there is no lien on the property against an innocent third person who takes the property from the garnishee without notice of a violation of the injunction of the writ.

8. Execution against real estate.

The rules make sweeping changes in the method of execution against real estate. As pointed out above, real property of the defendant held in the name of a garnishee may be either levied upon (Rule 3108(f)) or attached (Rule 3108(e)). The prior practice of "paper levies" against real estate by endorsement on the writ is continued. (Rule 3108(f)). The statutes requiring inquisition and condemnation of real estate before sale are suspended by the rules. However the court is given broad power, either on its own motion or on application of the defendant or any party in interest, to grant relief upon a showing that the rents and income will be sufficient within a reasonable period to satisfy the judgment and that the defendant is willing to have the rents so applied either by agreement or by sequestration. (Rule 3121(b)(2) and (c)). The provision for sale of real property extending across

county lines is simplified by substituting petition procedure for the complication prior procedure. (Rule 3131). The right of lien creditors to apply their liens against the purchase price remains unchanged (Rule 3133) but the procedure for distribution of proceeds and delivery of the sheriff's deed has been completely revised. (Rules 3135, 3136). It is no longer necessary to have returns of execution of real estate read in open court or advertised and the sheriff may, within ten days after filing the schedule of distribution, if no petition to set aside the sale is filed, execute, acknowledge and deliver the deed to the property sold. The notice of sale has been enlarged to require specified notice as to the filing of exceptions and no further notice is required. (Rules 3128, 3129). Confirmation of sale is no longer required. (Rules 3129, 3135).

Furthermore, an execution, if the writ is served within its ninety-day period of validity, remains valid thereafter for purposes of completing the execution, and authorizes a sale even after the ninety-day period without further issuance of the writ. (Rule 3106(d)). The prior practice of requiring sale of real estate before the return day or within four days thereafter is suspended. (Rule 3106(d)). However the sheriff may consider a levy as abandoned, in the absence of stay or extension, if sale is not held within six months. (Rule 3120). This also applies to execution against personal property.

The prior requirement of a second notice in the event of the postponement of an advertised sale has been modified. One adjournment may now be made without further notice or advertisement, if the adjournment is made to a date certain and is announced at the time and place of the originally advertised sale. (Rules 3128(c), 3129(d)).

9. Supplementary relief.

The types of supplementary relief available to a plaintiff are simplified and expanded. The provisions for oral examination under the Act of 1913 are suspended except as to the immunity provisions. Discovery may be had either before or after the writ of execution upon oral examination or written interrogatories directed to the defendant or to any person or party as provided by the deposition and discovery rules. (Rule 3117). The plaintiff is also given the right to supplementary relief without the necessity of full dress equity proceedings. (Rule 3118). He may upon petition filed in the court in which execution was issued obtain an order enjoining the negotiation, transfer, assignment, or other disposition of any security document of title, pawn ticket, mortgage or other property of the defendant, obtain an order for any action necessary to preserve collateral securities, compel the disclosure to the sheriff of the whereabouts of property and its redelivery to the sheriff if removed from the county for the purpose of avoiding execution and obtain such other equitable relief as may be appropriate under the circumstances. (Rule 3118).

10. Defendant's rights.

The rights of the defendant are also enlarged by the rules. The defendant may upon petition obtain release of the property from levy, either upon filing of bond, or upon showing that the value of the property levied upon is excessive compared to the judgment. (Rule 3119). The defendant is given broad rights as to stay of execution which may be granted on legal or equitable grounds. (Rule 3121). The proceedings for claim of exemption are simplified and failure to claim the exemption in kind will no longer constitute a waiver of exemption but the sheriff is required to set aside either in kind or from the proceeds of sale the amount of the defendant's exemption unless otherwise waived. (Rule 3123). Outside appraisers in exemption claims are abolished; all appraisals will be made by the sheriff. (Rule 3123(b)). Although the procedure as to inquisition and condemnation of real estate is suspended, the court is given broad equitable powers to grant the defendant relief upon showing that the net rents or income can satisfy the judgment within a reasonable time without impairing the ultimate collection of the judgment and without undue hardship to the plaintiff. (Rule 3121(b)(2) and (d)).

Where execution is issued from one county to another, the defendant is given the alternative of filing objections and stay proceedings either in the county of issuance of the writ or in the county where execution is had. (Rule 3122). The Act of March 27, 1945, 12 P. S. §§ 913, 914, authorizing the defendant in confessed judgments to move to open in the county in which judgment was originally entered or in the county of issuance remains unsuspended.

11. Garnishee proceedings.

The proceedings between the plaintiff and garnishee are substantially the same as under the Foreign Attachment Rules. The execution rules are complete in themselves and no longer depend upon cross-reference to the Foreign Attachment Rules. The Attachment Execution Rules (3101 et seq.) adopted in 1954 are superseded.

The garnishee will be under no duty to resist the attachment or defend the action after he has given notice to the defendant. (Rules 3140, 3141). The interrogatory procedure between the plaintiff and the garnishee is the same as though the interrogatories were a complaint and the answer of the garnishee an answer in assumpsit. (Rules 3145(a) and (b)). The garnishee's rights are however enlarged to permit under "new matter" the setting forth of any claim which he could assert against the plaintiff if sued by him. (Rule 3145(b)(3)). The garnishee is also given a choice of venue when the writ is directed to another county. (Rule 3141). If the garnishee is found to have only a lien upon the property, the rights of all parties may be enforced by a conditional verdict or order. (Rule 3148(d)).

12. Miscellaneous provisions.

The right of the sheriff to break and enter in order to sell personal property levied upon is continued but the requirement of bond is eliminated. (Rule 3127). The procedure authorizing sale of inventory in course of trade is a new procedure which may help preserve the real value of the assets for the benefit of both plaintiff and defendant. (Rule 3126). Similarly, securities dealt with upon recognized stock exchanges or commodity exchanges may be sold by the sheriff through such exchanges instead of by ordinary execution sale. (Rule 3130).

Conclusion:

The rules simplify and streamline execution procedure. The Committee kept in mind the possible abuse against poor debtors which might result from a simplified procedure, especially in the major metropolitan areas of the Commonwealth. Great changes have taken place in our economy since the Act of 1836 codified execution procedure. The majority of judgments entered in metropolitan areas are confessed judgments upon installment paper, usually containing waivers of exemption. The problem of waiver of exemption and the limitation of execution against the property of poor defendants generally, for default in connection with small installment purchases of consumer's goods, and relief in the nature of deficiency judgment legislation are substantive matters requiring remedial legislation not within the purview of procedural rules. The rules themselves are drawn so as to provide substantial flexibility to protect against abuses. Local rules may require additional notice of sale (Rules 3128(d) and 3129(e)) and very broad powers are granted to the court to stay execution. (Rule 3121). Full schedules of receipt and distribution of funds by sheriffs are required. (Rule 3136).

The rules aim to provide a simple and efficient method of execution, consistent with the protection of the rights of the defendant and garnishee. They deal only with those matters which are subject to procedural reform. They do not touch problems where legislation alone can provide relief.

Rule 3101. Definitions. Garnishee. Scope.

(a) As used in this chapter

"judgment" means a judgment or order requiring the payment of money entered in any court which is subject to these rules, including a final or interlocutory order for payment of costs, except a judgment against the Commonwealth or a political subdivision;

Official Note: The enforcement of judgments in special actions of ejectment, replevin and mortgage foreclosure is governed by Rules of Civil Procedure 3160 et seq.

Political subdivision includes a municipal or other local authority. See Definition Rule 76.

"plaintiff" means the holder of a judgment;

"political subdivision" means a municipal or other local authority. See Definition Rule 76.

"defendant" means any party against whom a judgment has been entered;

"security" means a security as defined by the Uniform Commercial Code;

“document of title” means a negotiable document of title as defined in the Uniform Commercial Code.

(b) Any person may be a garnishee and shall be deemed to have possession of property of the defendant if the person

- (1) owes a debt to the defendant;
- (2) has property of the defendant in his or her custody, possession or control;

Official Note: For limitation on the power to attach tangible personal property see Rule 3108(a).

- (3) holds as fiduciary property in which the defendant has an interest;
- (4) holds the legal title to property of the defendant whether or not in fraud of creditors; or
- (5) owns or possesses real property subject to a mortgage, judgment or other lien in which defendant has an interest.

Official Note:: Judgments against the Commonwealth, political subdivisions and public authorities constituting bodies corporate and politic, shall be enforced in accord with the appropriate Acts of Assembly which remain unsuspended.

As to first class townships, see The First Class Township Code of June 24, 1931, P. L. 1206, § 1711, as amended, 53 P. S. § 56711.

As to second class townships, see Second Class Township Code of May 1, 1933, P. L. 103, No. 69, § 3205, as amended, 53 P. S. § 68205.

As to boroughs, see the Borough Code of February 1, 1966, P. L. (1965) _____, No. 581, § 1303, as amended, 53 P. S. § 46303.

As to school districts, see the Act of March 10, 1949, P. L. 30, § 611, as amended, 24 P. S. § 6-611.

As to municipal authorities, state highway authorities, bridge authorities, parking authorities, public housing authorities, General State Authority, and other like public corporations, see the various applicable acts creating them, limiting the remedies of both bondholders and creditors.

The following Acts of Assembly were repealed by the Judiciary Act Repealer Act (JARA). Pursuant to Section (3)(b) of that Act, 42 Pa.C.S. § 20003(b), these statutes remain part of the common law of the Commonwealth. For an example of the application of Section 3(b) of the Act, see *Ricci v. Cuisine Management Services*, 423 Pa. Super Ct. 371, 621 A.2d 163, 165 (1993).

The County Code of August 9, 1955, P. L. 323, § 2804, 16 P. S. § 2804, as amended.

The Act of July 28, 1953, P. L. 723, § 3204, 16 P. S. § 6204 pertaining to second class counties.

(c) The rules of this chapter shall not apply to the attachment of wages, salary or commissions to satisfy a money judgment arising from a residential lease pursuant to Section 8127(a)(3.1) of the Judicial Code.

Official Note: For the attachment of wages under Section 8127(a)(3.1) of the Judicial Code, see Rule 3301 et seq.

Source

The provisions of this Rule 3101 adopted March 30, 1960, effective November 1, 1960; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 22; amended December

16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended December 21, 2005, effective one month after the date of the order, 36 Pa.B. 176. Immediately preceding text appears at serial pages (302575) to (302576).

Rule 3101.1. Property Subject to Execution. Execution Within and After Five Years.

(a)(1) Execution may issue within five years after entry of the judgment sought to be enforced or any judgment of revival or agreement to revive, against

- (i) real property which is subject to the lien of the judgment, and
- (ii) real property, title to which at the time of the entry of the writ of execution in the judgment index is recorded in the name of the person against whom the judgment is entered.

(2) If more than five years have expired since the entry of the judgment or of the last preceding judgment of revival or agreement to revive, no execution against real property may issue until a writ of revival shall have issued and been reduced to judgment or an agreement to revive entered. The execution shall issue on the judgment or agreement so entered and not on the original judgment.

(b) Execution may issue against personal property within the time allowed by law.

Official Note: Subdivisions (a)(1) and (2) continue the practice under Section 7 of the Act of July 3, 1947, P. L. 1234, 12 P. S. § 883 (repealed) relating to property subject to execution and execution after five years.

For the applicable law under subdivision (b), see Section 5529(a) of the Judicial Code, 42 Pa.C.S. § 5529(a) (twenty-year limitation to issue execution upon personal property). See also *Shearer v. Naftzinger*, 747 A.2d 859 (Pa. 2000).

A proceeding to revive a judgment lien is not relevant to an execution upon personal property.

Source

The provisions of this Rule 3101.1 adopted December 19, 2003, effective July 1, 2004, 34, Pa.B. 22.

Rule 3101.2. Obligation Secured by Real and Personal Property. Plaintiff's Election to Proceed against Both in Accordance with Its Rights against the Real Property.

(a)(1) A money judgment on an obligation secured by a mortgage which grants a mortgage lien on an estate, leasehold or interest in land and also a security interest in personal property, at the election of the plaintiff, may be enforced against both in one proceeding pursuant to the rules of this chapter governing execution against real property.

(2) A claim that any tangible personal property levied upon pursuant to a writ of execution is the property of a person other than the defendant in the execution shall proceed in accordance with Rule 3201 et seq. governing sheriff's interpleader.

Official Note: The rules of this chapter governing execution on personal property do not apply to an execution on personal property if an election has been made to proceed under this

rule. However, Rule 3201 et seq. governing sheriff's interpleader does apply when tangible personal property levied upon is claimed to be the property of a person other than the defendant in the execution.

For a similar provision applicable to the enforcement of a judgment of mortgage foreclosure, see Rule 3180(b).

(b) The plaintiff shall make the election to proceed under subdivision (a) by filing an affidavit setting forth the place of record of the mortgage and stating that

(1) the mortgage covers both the real property and the personal property against which the plaintiff seeks execution, and

(2) the plaintiff intends to proceed against both in accordance with its rights against the real property pursuant to Section 9604 of the Uniform Commercial Code and this rule.

(c) If plaintiff elects to proceed as provided by this rule, the term "real property" as used in this chapter shall be deemed to include the personal property.

Official Note: Subdivision (c) is not applicable to a proceeding in sheriff's interpleader under Rule 3201 et seq. in which tangible personal property levied upon is claimed to be the property of a person other than the defendant in the execution.

Source

The provisions of this Rule 3101.2 adopted March 13, 2007, effective June 1, 2007, 37 Pa.B. 1411.

Rule 3102. Writ of execution.

Except as provided in Rule 3250, a judgment shall be enforced by a writ of execution substantially in the form provided by Rule 3252.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Civil arrest has been abolished except as provided by Section 5108(b) of the Judicial Code, 42 Pa.C.S. § 5108(b).

Writs of fieri facias, attachment execution, vendex, liberari facias and all other forms of execution writs on money judgments against property of the defendant are supplanted by the writ of execution provided by these rules.

Exemption and immunity of property from execution remain as heretofore. For limitations as to execution against partners or association members on judgments against partnerships or unincorporated associations, see Rules 2132 and 2155.

Source

The provisions of this Rule 3102 amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026. Immediately preceding text appears at serial page (213398).

Rule 3103. Commencement; issuance.

(a) Execution shall be commenced by filing a praecipe for a writ of execution with the prothonotary of any county in which judgment has been entered. Except as otherwise prescribed by Rule 2963 governing a judgment entered by confession, the praecipe shall be in the form prescribed by Rule 3251.

Official Note: The following Acts of Assembly contain special procedures in connection with the issuance of the writ:

Section 428 of the Act approved June 2, 1915, P. L. 736, as amended, 77 P. S. § 951, providing for filing with the prothonotary an affidavit of default in payments before execution may issue on workmen's compensation judgments.

Section 712 of the Act approved May 15, 1933, P. L. 565, as amended, 71 P. S. § 733-712 requiring leave of court for execution against a financial institution of which the Secretary of Banking is in possession as receiver.

Section 3377 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 3377, providing that execution may not issue on judgments against decedents other than on mortgages, ground rents or conditional sales of real or personal property without agreement in writing of the personal representative or approval of the Orphans' Court.

The Soldier's and Sailor's Civil Relief Act, 50 U.S.C.A. Appendix 520.

(b) A writ issued by the prothonotary of the county in which judgment was entered originally or by transfer or certification from another court in the same county may be directed to the sheriff of any county within the Commonwealth.

Official Note: Rule 2959(a)(1) authorizes the defendant in a confessed judgment to move to open judgment either in the county of entry or of execution.

(c) When a judgment is transferred to another county, a writ issued by the prothonotary of the transferee county may be directed only to the sheriff of his county.

(d) Writs may be issued at the same or different times or to the sheriffs of different counties without a prior return of any outstanding writ.

(e) Upon issuance of the writ the prothonotary shall transmit it directly to the sheriff to whom it is directed or upon plaintiff's request deliver it to the plaintiff or the plaintiff's representative for transmittal.

Source

The provisions of this Rule 3103 adopted March 30, 1960, effective November 1, 1960; amended April 1, 1996, effective July 1, 1996, 26 Pa.B. 1806; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026. Immediately preceding text appears at serial pages (213399) to (213400).

Rule 3104. Writ of Execution. Entry. Lien.

(a)(1) When issuing the writ, the prothonotary shall enter it against the defendant in the judgment index. The writ, when entered, shall

(i) continue the lien upon real property which is then subject to the lien of the judgment, and

(ii) create a lien on real property acquired by the defendant subsequent to the entry of the judgment, located in the county, title to which at the time of entry of the writ is recorded in the name of the defendant.

Official Note: As to the effect of entry of the writ, Rule 3104 continues the practice under the Judgment Lien Law of 1947, 12 P. S. § 883 (repealed). See also Section 4303 of the Judicial Code, 42 Pa.C.S. § 4303.

The praecipe for the writ of execution contains a direction to the prothonotary to enter the writ in the judgment index. See Rule 3251.

(2) A lien created or continued solely by the entry of a writ of execution in the judgment index shall continue for a period of five years from the date the writ was entered.

Official Note: The lien of a writ of execution is not subject to revival under Rule 3025 et seq. governing revival of the lien of a judgment.

(b) Upon receiving a writ from another county, the sheriff shall deliver it to the prothonotary of his or her county who shall thereupon enter it in the judgment

index and return it to the sheriff for execution. Such entry shall have the same effect as the entry of a judgment against the defendant.

(c) When the writ directs attachment of real property of the defendant in the name of a garnishee, the prothonotary of the county in which the writ is to be executed, upon praecipe of the plaintiff so directing and describing the real property in that county, shall enter the writ against the garnishee in the judgment index as a *lis pendens*. Entry against the garnishee shall constitute a *lis pendens* against the described property only in the county where the writ is entered and not against any other property of the garnishee.

Source

The provisions of this Rule 3104 adopted March 30, 1960, effective November 1, 1960; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial page (255348).

Rule 3105. Writ; notation of time of receipt.

The sheriff shall note on the writ the date and time when it is received.

Source

The provisions of this Rule 3105 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243902).

Rule 3106. Substitution, reissuance and expiration of writ.

(a) Upon praecipe stating that a writ has been lost or destroyed a substituted writ may be issued.

(b) A writ may be reissued at any time, and any number of times, by endorsement thereon by the prothonotary of the word “reissued”.

(c) A reissued writ may name a garnishee not originally named.

(d) A writ shall not be served nor shall a levy or attachment be made thereunder after the expiration of ninety days from the date of issuance or reissuance. After levy or attachment has been made under the writ within the ninety day period it shall remain valid without further reissuance for the purpose of completing the pending execution proceedings under the levy or attachment.

Source

The provisions of this Rule 3106 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial pages (243902) to (243903).

Rule 3107. Order of levy and attachment.

Real or personal property of the defendant may be levied upon or attached in any order or simultaneously, as the plaintiff may direct.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3108. Service of Writ, Notice of Execution.

(a) Service of the writ shall be made by the sheriff in the case of

(1) tangible personal property, by levy thereon or, if the property is in possession of a third person who prevents a levy or fails to make the property of the defendant available to the sheriff for levy, by serving the third person as garnishee;

Official Note: The following Acts of Assembly remain unsuspending:

The Uniform Commercial Code, 13 Pa.C.S. § 7602, requiring seizure, surrender or injunction against negotiation of negotiable documents of title covering goods in the possession of a bailee.

The Uniform Commercial Code, 13 Pa.C.S. § 8112, providing for the legal process by a creditor to reach a certificated security, an uncertificated security and a security entitlement.

The Pawn Brokerage Act of April 6, 1937, P. L. 200, § 21 63 P. S. § 281—21, providing that pawnbrokers shall not be required by legal process to deliver a pledge without surrender of the pawn ticket unless the pawn ticket has been impounded or its negotiation enjoined.

For special provisions relating to access to safe deposit boxes see Rule 3110.

(2) a lien upon real property created under a mortgage, judgment or otherwise, by serving as garnishee the mortgagor, judgment or lien debtor, and the real owner of the real property upon which the mortgage, judgment or other lien is secured, as provided in Rule 3113;

Official Note: Only personal service upon the mortgagor or judgment debtor in the same manner as a writ of summons in a civil action will attach the personal liability of the mortgagor on the bond or the personal liability of the judgment debtor on the judgment.

- (3) the interest of the defendant in a partnership, by serving the partnership as garnishee;
- (4) other intangible personal property and rents, by serving a garnishee;

Official Note: Rents may also be ordered sequestered under Rule 3114 relating to execution against real property or a mortgage or lien thereon.

(5) real property of the defendant, title to which is recorded in the name of a third party, by levy and attachment as provided by Rule 3112;

(6) all other real property in the county, by noting upon the writ a brief description of the real property levied upon and a statement that the sheriff has levied upon the defendant's interest therein.

(b) Upon levy or attachment, the sheriff shall mail a copy of the writ to the execution defendant at the last known address. The plaintiff shall provide the sheriff with copies of the writ and envelopes for mailing properly stamped and addressed. The sheriff shall note in the return the mailing of the writ and the date thereof.

Source

The provisions of this Rule 3108 amended through December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026. Immediately preceding text appears at serial pages (213401) to (213402).

Rule 3109. Manual possession; retention of possession.

(a) The sheriff may, or at the direction of the plaintiff shall, take manual possession or custody of any tangible personal property of the defendant upon which the sheriff has made a levy.

(b) The sheriff shall thereafter hold the property until termination of the proceedings, unless

- (1) otherwise authorized in writing by the plaintiff;
- (2) the levy is abandoned, set aside or withdrawn;
- (3) the property is released from the levy; or
- (4) the plaintiff fails to give bond or security required by these rules.

(c) If the sheriff does not retain possession of the property taken, it shall be returned to the person from whom it was taken.

(d) The sheriff may require bond or security for the actual or estimated cost of retaining possession of and preserving property levied upon.

Source

The provisions of this Rule 3109 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243904).

Rule 3110. Execution against contents of safe deposit box.

(a) The sheriff shall levy upon property of the defendant in a safe deposit box by serving the depository or custodian of the box.

(b) Service of the writ shall enjoin the depository or custodian from opening or permitting the opening of the box except as directed by the court.

(c) The court, on petition of the plaintiff, shall grant a rule on the defendant, the depository or custodian, and any person who has the right to open the box, to show cause why the box should not be opened in the presence of the sheriff, by force if necessary, and the property of the defendant found therein delivered to the sheriff. If the defendant, the depository or custodian, or a person who has the right to open the box cannot be served personally with the petition and rule, that person shall be served by sending a copy of the petition and rule by registered mail directed to his or her last known address or, if no address is known and an affidavit to that effect is filed, by publication in such manner as the court by local rule or special order shall direct.

Official Note: “Registered mail” includes certified mail. See Definition Rule No. 76.

(d) The court shall not order the opening of a box by force unless the plaintiff furnishes bond or security deemed sufficient by the court to indemnify the depository or custodian against loss caused by the opening of the box.

Source

The provisions of this Rule 3110 adopted March 30, 1960, effective November 1, 1960; amended November 14, 1978, effective December 2, 1978, 8 Pa.B. 3410; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial pages (243904) to (243905).

Rule 3111. Service of the Writ on Garnishee. Effect.

(a) The writ shall be served by the sheriff upon the garnishee in the manner prescribed by Rule 402(a) except as otherwise provided by Rules 3112 and 3113. The sheriff shall furnish the garnishee with an additional copy of the writ for each defendant. If the garnishee served was not named in the writ he shall be added as a garnishee and return made accordingly.

(b) Service of the writ upon the garnishee shall attach all property of the defendant which may be attached under these rules which is in the possession of the garnishee. It shall also attach all property of the defendant which may be attached under these rules and which comes into the garnishee’s possession thereafter until judgment against the garnishee even though no such property of the defendant was in the garnishee’s possession at the time of service.

Official Note: For limitations on the power to attach tangible personal property see Rule 3108(a).

See Rule 3111.1 providing that service of the writ does not attach the first \$10,000 of each account of the defendant in which any funds are deposited electronically on a recurring basis and are identified as funds that upon deposit are exempt from attachment, or each account of

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the defendant in which funds on deposit exceed \$10,000 at any time, if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from attachment.

(c)(1) If a garnishment has not been acted upon within one year of the filing of the garnishment, the garnishee or the defendant may file a petition to terminate the garnishment. The petition shall include a notice that the plaintiff has twenty days to respond to the filing of the petition and that upon failure to do so, the garnishment may be terminated.

(2) Any response to the petition shall be filed within twenty days of the filing of the petition and set forth the reasons not to terminate the garnishment.

(3) If no response to the petition is filed, upon praecipe, the writ of garnishment shall be terminated.

Official Note: If a response is filed to the petition to terminate the garnishment, it shall be resolved pursuant to motion and answer practice. See Rule 208.1 et seq.

(d) Service of the writ upon the garnishee shall also subject the garnishee to the mandate and injunctive orders of the writ restraining the garnishee from paying any debt to or for the account of the defendant and from delivering any property of the defendant which may be attached under these rules to anyone except the sheriff or otherwise disposing thereof until further order of the court or discontinuance or termination of the attachment.

(e) Violation of the mandate and injunctive orders of the writ may be punished as a contempt.

Source

The provisions of this Rule 3111 adopted March 30, 1960, effective November 1, 1960; amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281; amended June 14, 1999, effective September 1, 1999, 29 Pa.B. 3191; amended February 23, 2007, effective April 1, 2007, 37 Pa.B. 939; amended April 16, 2010, effective May 17, 2010, 40 Pa.B. 2243; amended March 7, 2014, effective April 7, 2014, 44 Pa.B. 1750. Immediately preceding text appears at serial pages (349477) to (349478). (*Editor's Note:* The Supreme Court of Pennsylvania has suspended its order of June 14, 1999, published at 29 Pa.B. 3191 (June 26, 1999). See 29 Pa.B. 4859 (September 18, 1999).)

Rule 3111.1. Exemptions from levy and attachment.

In the absence of a court order, service of the writ upon a bank or other financial institution as garnishee shall not attach

(1) the first \$10,000 of each account of the defendant containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or Federal law,

Official Note: See Rule 3146(b)(2) governing judgment against a bank or other financial institution as garnishee upon admission in answer to interrogatory.

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(2) each account in which funds on deposit exceed \$10,000 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or Federal law, and

(3) the funds on deposit, not including any otherwise exempt funds, that do not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123. The plaintiff shall have the right to file an objection if the plaintiff believes that the defendant has exhausted the statutory exemption.

Source

The provisions of this Rule 3111.1 adopted February 23, 2007, effective April 1, 2007, 37 Pa.B. 939; amended April 16, 2010, effective May 17, 2010, 40 Pa.B. 2243. Immediately preceding text appears at serial page (326450).

Rule 3112. Service of the writ upon garnishee; real property of defendant in name of third party.

(a) The sheriff shall execute the writ against real property of the defendant, title to which is recorded in the name of a third party, by serving the third party as garnishee and noting upon the writ a description of the real property and a statement that the sheriff has levied upon defendant's interest therein.

(b) The plaintiff shall have the right of service upon the garnishee

(1) in any other county by having the sheriff of the county in which the writ is issued deputize the sheriff of the other county where service may be had, or

(2) outside the state by having any competent adult serve the garnishee personally and file an affidavit thereof in the action.

(c) A garnishee who cannot be served as provided in Rules 3111(a) or 3112(b) shall be served by (1) posting a copy of the writ on a public part of the property and (2) handing a copy of the writ to the person in actual possession of the property or, if no one is in actual possession, by sending the garnishee a copy of the writ together with an inventory of the property attached, by registered mail directed to the garnishee's last known address or, if no address is known and an affidavit to that effect is filed, by publication in such manner as the court by special order shall direct.

Official Note: Registered mail includes certified mail. See Definition Rule 76.

The remedies available under the Pennsylvania Uniform Fraudulent Transfer Act, 12 Pa.C.S. § 5107, are not suspended by these rules.

Source

The provisions of this Rule 3112 amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243906).

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Rule 3113. Service upon garnishee; execution against mortgages, judgments or other liens on real property.

In execution against a lien upon real property created under a mortgage, judgment or otherwise, if the garnishee cannot be served as provided in Rule 3111(a), service shall be made in the manner provided by Rule 3112.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

The real owner of the property which is subject to the mortgage, judgment or other lien is considered a garnishee. See rule 3101(b)(5).

Rule 3114. Sequestration of rents, principal, interest, income, etc.

Upon execution against any interest in real property, or a mortgage or lien thereon the court on petition of the plaintiff, may order the sheriff, or a sequestrator appointed by the court, to collect any rent, interest, principal or other sum becoming due to the defendant, to exercise any powers possessed by the defendant as landlord, mortgagee, life tenant, judgment creditor, lien holder, vendor or otherwise, and to account to the court. The court may require a sequestrator's bond in such amount and upon such terms as it deems proper.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3115. Writs of several plaintiffs; notation of levy.

(a) A levy upon tangible personal property under any valid writ shall be a levy upon said property under every valid writ of any plaintiff against the same defendant then in the hands of the sheriff. The levy shall be noted on each writ.

(b) When tangible personal property has been levied upon and the property remains subject to the levy or the proceeds of the sheriff's sale thereof remain in the hands of the sheriff, a levy upon the property or proceeds under a later writ against the same defendant may be made by notation of levy upon the later writ. The sheriff shall also make an actual levy if the plaintiff so directs.

(c) The stay of a writ, abandonment of a writ or a levy thereunder, release of property from levy or setting aside of a writ or levy, shall not affect any levy made or proceeding taken under any other writ prior to such action, unless the court otherwise directs.

Source

The provisions of this Rule 3115 adopted March 30, 1960, effective November 1, 1960; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026. Immediately preceding text appears at serial page (213405).

Rule 3116. Security for sheriff.

No bond or security shall be required by the sheriff except as provided by these rules.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

See Rule 3109(d) authorizing bond or security for the cost of retaining or preserving property levied upon and Rule 3110(d) authorizing bond to indemnify depository upon the forcible opening of a safe deposit box.

Rule 3117. Discovery in aid of execution.

(a) Plaintiff at any time after judgment, before or after the issuance of a writ of execution, may, for the purpose of discovery of assets of the defendant, take the testimony of any person, including a defendant or a garnishee, upon oral examination or written interrogatories as provided by the rules relating to Depositions and Discovery. The prothonotary of the county in which judgment has been entered or of the county within this Commonwealth where the deposition is to be taken, shall issue a subpoena to testify.

(b) All reasonable expenses in connection with the discovery may be taxed against the defendant as costs if it is ascertained by the discovery proceedings that the defendant has property liable to execution.

Official Note: The immunity provisions of Section 5941(b) of the Judicial Code, 42 Pa.C.S. § 5941(b), relating to the judgment debtor remain unsuspending by these rules.

Source

The provisions of this Rule 3117 adopted March 30, 1960, effective November 1, 1960; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026. Immediately preceding text appears at serial page (213406).

Rule 3118. Supplementary relief in aid of execution.

(a) On petition of the plaintiff, after notice and hearing, the court in which a judgment has been entered may, before or after the issuance of a writ of execution, enter an order against any party or person

(1) enjoining the negotiation, transfer, assignment or other disposition of any security, document of title, pawn ticket, instrument, mortgage, or document representing any property interest of the defendant subject to execution;

(2) enjoining the transfer, removal, conveyance, assignment or other disposition of property of the defendant subject to execution;

(3) directing the defendant or any other party or person to take such action as the court may direct to preserve collateral security for property of the defendant levied upon or attached, or any security interest levied upon or attached;

(4) directing the disclosure to the sheriff of the whereabouts of property of the defendant;

(5) directing that property of the defendant which has been removed from the county or concealed for the purpose of avoiding execution shall be delivered to the sheriff or made available for execution; and

(6) granting such other relief as may be deemed necessary and appropriate.

(b) The petition and notice of the hearing shall be served only within the Commonwealth in the manner prescribed by Rule 440 for the service of legal papers other than original process.

(c) Violation of the mandate or injunction of the court may be punished as a contempt.

Official Note: Service of a writ of execution against a garnishee enjoins the garnishee as provided in Rule 3111 but supplementary aid may be obtained under this rule against any party or person without the necessity of separate proceedings in equity in aid of execution.

Source

The provisions of this Rule 3118 amended June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243908).

Rule 3119. Release of property from levy.

Upon cause shown, on petition of any person or party in interest, the court may

(1) release specific property from a levy upon the filing of a bond or security approved by the court in an amount based upon the value of the property, or the amount of the judgment, interest, and probable costs, whichever is less, or

(2) release part of the property, if the value of the property levied upon is excessive compared to the amount of the judgment, interest, and probable costs.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3120. Abandonment of levy.

The sheriff may abandon the levy if

(1) the plaintiff fails to make payment promptly upon demand of the sheriff's proper fees and costs, or

(2) sale of the property levied upon is not held within six (6) months after levy, unless the proceedings are stayed or the time for sale is extended by the court.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3121. Stay of execution; setting aside execution.

(a) Execution shall be stayed as to all or any part of the property of the defendant.

(1) upon written direction of the plaintiff to the sheriff:

(2) upon the entry of bond with the prothonotary, by any person or party in interest, with security approved by the prothonotary, in the amount of plaintiff's judgment, including probable interest and costs, or in such lesser amount as the court may direct, naming the Commonwealth of Pennsylvania as obli-

gee, and conditioned to pay the amount due within ninety (90) days of the entry of bond, unless the time for payment be further extended by the court;

- (3) pending disposition of a property claim filed by a third party;
- (4) upon a showing of exemption or immunity of property from execution;
- (5) upon a showing of a right to a stay under the provisions of an Act of Congress or any Act of Assembly.

(b) Execution may be stayed by the court as to all or any part of the property of the defendant upon its own motion or application of any party in interest showing

- (1) a defect in the writ, levy or service; or
- (2) any other legal or equitable ground therefor.

(c) In an order staying execution the court may impose such terms and conditions or limit the stay to such reasonable time as it may deem appropriate.

Official Note: The defendant may under these rules obtain a stay upon a showing that the net rents or income can satisfy the judgment, interest and costs within a reasonable time, that a stay will not imperil the ultimate collection of the judgment and that in balancing the equities no undue hardship will be inflicted on the plaintiff. The court may in granting stay provide for payment to the plaintiff or may order sequestration of the rents or income.

(d) The court may on application of any party in interest set aside the writ, service or levy

- (1) for a defect therein;
- (2) upon a showing of exemption or immunity of property from execution, or
- (3) upon any other legal or equitable ground therefor.

(e) All objections by the defendant shall be raised at one time.

Official Note: The garnishee may however raise the defenses of exemption or immunity of property from execution by preliminary objection or in answers to interrogatories. See Rules 3142(a) and (c) and 3145(b).

(f) After the termination of a stay, sale may be had without reissuance of the writ.

Source

The provisions of this Rule 3121 adopted March 30, 1960, effective November 1, 1960; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2188. Immediately preceding text appears at serial pages (243909) to (243910).

Rule 3122. Venue of stay and other proceedings.

When the writ is issued to another county, proceedings for stay shall, at the option of the defendant, be taken in the county from which the writ issued or to which it is directed. Interpleader proceedings and all other proceedings relating to the levy shall be carried on only in the county where the levy is made.

Official Note: By Rule 3141(b) the garnishee is given a similar option as to the venue of the proceedings.

Rule 2959(a)(i) authorizes the defendant in a confessed judgment to petition to open the judgment in the county in which the judgment is entered or in the county of execution.

Source

The provisions of this Rule 3122 adopted March 30, 1960, effective November 1, 1960; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026. Immediately preceding text appears at serial page (213408).

Rule 3123. Debtor's exemption.

(a) A defendant entitled to a statutory exemption may claim it in kind or in cash at any time before the date of sale by notifying the sheriff of his or her claim and, if the exemption is claimed in kind, by designating the property which he or she elects to retain as exempt. Failure of the defendant to claim the statutory exemption shall not constitute a waiver thereof.

Official Note: See *Mayhugh v. Coon*, 460 Pa. 128, 331 A.2d 452 (1975).

(b) Upon receipt of a claim for exemption in kind the sheriff shall set aside, from the designated property, enough thereof as appraised by the sheriff, to equal the value of the exemption, unless the property is incapable of division. In the event of failure of the defendant to claim the statutory exemption, the sheriff shall similarly choose, appraise, and set aside property in kind. Real property claimed shall be described by metes and bounds and the description shall be included in the sheriff's return.

(c) If the property held by the sheriff in kind cannot be set aside because it is not capable of appropriate division, the sheriff shall set aside from the proceeds of the sale and pay to the defendant in cash the amount of the statutory exemption.

(d) Any party in interest may, within forty-eight hours, appeal to the court from the sheriff's appraisal or designation of property. The sheriff shall proceed with the sale as to the remainder of the property levied upon unless the sale shall be postponed by order of the court or written direction of the plaintiff.

Official Note: See Rule 3123.1 for the requirement of a prompt court hearing upon a claim for exemption of property from execution.

Source

The provisions of this Rule 3123 amended March 16, 1981, effective March 27, 1981, 11 Pa.B. 1075; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2188. Immediately preceding text appears at serial pages (243910) to (243911).

Rule 3123.1. Claim for exemption or immunity of property; prompt hearing.

(a) A defendant may claim exemption or immunity of property from levy or attachment by filing with the sheriff a claim substantially in the form provided by Rule 3252(a). The defendant may include in the claim a demand for a prompt hearing. The sheriff shall immediately notify the plaintiff and garnishee of the filing of the claim.

(b) The sheriff shall immediately present the matter to the court. The court shall hear the claim within five business days thereafter upon such notice to the parties as the court shall direct and shall promptly dispose of the matter on the testimony, admissions or other evidence.

(c) Judgment may not be entered against the garnishee pursuant to Rule 3146(b) until the expiration of twenty days from the date of service of the writ of execution upon the garnishee. If a claim for exemption is pending, judgment pursuant to Rule 3146(b) may be entered only by agreement of the parties or by leave of court.

Official Note: Pennsylvania and Federal law provide numerous exemptions of property from execution, including the following:

Exemptions under Pennsylvania Law

1. General \$300 statutory exemption, 42 Pa.C.S. § 8123.
2. Particular personal property exemption—wearing apparel, bibles and school books, sewing machines, uniforms and equipment, 42 Pa.C.S. § 8124(a).
3. Certain retirement funds and accounts, 42 Pa.C.S. § 8124(b):
 - Public School Employees' Retirement Fund, 24 Pa.C.S. § 8533 and 42 Pa.C.S. § 8124(b)(1)(i).
 - State Employees' Retirement Fund, 42 Pa.C.S. § 8124(b)(1)(ii) and 71 Pa.C.S. § 5953.
 - Police Pension Funds, 42 Pa.C.S. § 8124(b)(1)(iii).
 - Philadelphia Pension Fund, 42 Pa.C.S. § 8124(b)(1)(iv).
 - Pittsburgh Pension Fund, 42 Pa.C.S. § 8124(b)(1)(v).
 - Pennsylvania Municipal Retirement Fund, 42 Pa.C.S. § 8124(b)(1)(vi).
 - Private employees' pensions or annuity funds, 42 Pa.C.S. § 8124(b)(1)(vii).
 - Self-employed retirement or annuity funds, 42 Pa.C.S. § 8124(b)(1)(viii).
 - Retirement or annuity funds provided for under the Internal Revenue Code, 42 Pa.C.S. § 8124(b)(1)(ix).
4. Certain insurance proceeds, 42 Pa.C.S. § 8124(c).
 - Fraternal society benefits, 42 Pa.C.S. § 8124(c)(1),(8).
 - Workmen's compensation, 42 Pa.C.S. § 8124(c)(2).
 - Group insurance, 42 Pa.C.S. § 8124(c)(5).
 - Life insurance and annuities, 42 Pa.C.S. § 8124(c)(3), (4), (6).
 - Accident and disability insurance, 42 Pa.C.S. § 8124(c)(7).
 - No-fault motor vehicle accident benefits, 42 Pa.C.S. § 8124(c)(9).
5. Personal earnings, subject to the exceptions under 23 Pa.C.S. Pt. IV relating to divorce and for support, board, certain damages arising from a residential lease, and student loan obligations, 42 Pa.C.S. § 8127.
6. Tangible personal property on international exhibition, 42 Pa.C.S. § 8125.
7. Common carrier, property in interstate transit, 42 Pa.C.S. § 8126.

8. Certain veteran benefits.
 - Veterans' litigation awards (Vietnam herbicide), 51 Pa.C.S. § 7902(a)
 - Sums payable under:
 - the Veterans' Compensation Act, 51 P. S. § 20012.
 - the World War II Veterans Compensation Act, 51 P. S. § 20048.
 - the Korean Conflict Veterans Compensation Act, 51 P. S. § 20098.
 - the Vietnam Conflict Veterans' Compensation Act, 51 P. S. § 20127.
- Exemptions under Federal Law
1. Certain wages and compensation:
 - Longshoremen's and harborworkers' compensation, 33 U.S.C. § 916.
 - Injury or death resulting from war-risk hazard, 42 U.S.C. § 1717.
 2. Social Security benefits, 42 U.S.C. § 407.
 3. Certain retirement funds and accounts:
 - Civil Service, 5 U.S.C. § 8346(a).
 - Foreign Service, 22 U.S.C. § 4060(c).
 - Railroad Retirement, 45 U.S.C. § 231m.
 - Judges' widows' annuities, 28 U.S.C. § 376(n).
 4. Certain veteran and armed forces benefits:
 - Laws administered by the Veterans Administration, 38 U.S.C. §§ 1970 and 5301.
 - Armed Forces Survivor Benefit Plan, 10 U.S.C. § 1450(i).
 - Savings deposited with armed forces, 10 U.S.C. § 1035(d).
 - Medal of Honor Roll Special Pension, 38 U.S.C. § 1562(c).
 5. Miscellaneous:
 - Property of a foreign state, 28 U.S.C. §§ 1609, 1611.
 - Rail Fund, 45 U.S.C. § 822(e).

Source

The provisions of this Rule 3123.1 adopted March 16, 1981, effective March 27, 1981, 11 Pa.B. 1075; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026. Immediately preceding text appears at serial pages (213409) to (213411).

Rule 3124. Order of sale.

Real or personal property sufficient in amount to satisfy the judgment, interest and probable costs, may be sold in any order or simultaneously as the plaintiff may direct.

Official Note: Adopted March 30, 1960, effective November 1, 1960; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 3125. Perishable property; sale, preservation, or other disposition.

When perishable property is levied upon or attached, the court may make such order relating to its preservation, sale or disposition as it shall deem proper.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3126. Sale of inventory in course of trade.

Merchandise, inventory, or stock in trade of a defendant engaged in trade or business may, after levy, be sold by the defendant for cash in the ordinary course

of trade or business if the plaintiff shall consent by writing directed to the sheriff. If the sheriff holds writs of more than one plaintiff against the defendant, all the plaintiffs must consent in writing to the sale. The sale shall be under the supervision of the sheriff. The proceeds of sale shall be immediately collected by or delivered to the sheriff until all writs held by the sheriff against the defendant are satisfied. Any plaintiff may withdraw his or her consent at any time.

Source

The provisions of this Rule 3126 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243913).

Rule 3127. Right of sheriff to break and enter.

The sheriff, after having levied upon or attached any personal property, may enter the place or building in which the goods are contained either peaceably or by breaking in by force, for the purpose of taking manual possession of or selling the property levied upon or attached. No bond shall be required of the plaintiff by the sheriff.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3128. Notice of sale; personal property.

(a) Notice of sale of personal property shall be given by the sheriff at least six (6) days prior to sale by handbills posted at the sheriff's office, the place of sale and the place of levy, if different from the place of sale.

(b) The notice of sale shall include a notice that all claims to the property must be filed with the sheriff before sale and all claims to the proceeds before distribution; that a sheriff's schedule of distribution will be filed in the sheriff's office on a date specified by the sheriff, not later than five days after sale; and that distribution will be made in accordance with the schedule unless exceptions are filed within ten days thereafter. No further notice of the filing of the schedule of distribution need be given.

Official Note: The time of sale, terms and conditions as to amount of deposit, time for payment of balance, forfeiture of deposit, resales or forfeiture and similar matters are not regulated by these rules and will be governed by local practice in order to permit greater adaptability to the wide variety of local conditions and customs.

(c) If the sale is stayed, or continued or adjourned generally, new notice shall be given as provided by Subdivisions (a) and (b). If the sale is continued or adjourned at the direction of the plaintiff to a date certain within thirty (30) days, and public announcement of the adjournment and new date is made to the bidders assembled at the time and place originally fixed for the sale, no new notice shall be required, but there may be only one such continuance or adjournment to a date certain without new notice.

(d) The court may by local rule or special order require additional notice to the defendant.

Source

The provisions of this Rule 3128 adopted March 30, 1960, effective November 1, 1960; amended November 14, 1978, 8 Pa.B. 3410; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243914).

Rule 3129. Notice of sale; real property.

[Rescinded].

Official Note: Notice of the execution sale of real property is governed by Rules 3129.1, 3129.2 and 3129.3.

Source

The provisions of this Rule 3129 adopted March 30, 1960, effective November 1, 1960; amended through March 25, 1986, effective July 1, 1986, 16 Pa. B. 1263; amended March 6, 1989, effective July 1, 1989, 19 Pa.B. 1282. Immediately preceding text appears at serial pages (105879) to (105885).

Rule 3129.1. Sale of Real Property. Notice. Affidavit.

(a) No sale of real property upon a writ of execution shall be held until the plaintiff has filed with the sheriff the affidavit required by subdivision (b) and the notice required by Rule 3129.2 has been served.

(b) The affidavit shall set forth to the best of the affiant's knowledge or information and belief as of the date the praecipe for the writ of execution was filed the name and address or whereabouts of

- (1) the owner or reputed owner of the real property and of the defendant in the judgment; and
 - (2) every other person who has any record lien on that property; and
 - (3) every other person who has any record interest in that property which may be affected by the sale; and
 - (4) every other person who has any interest in that property not of record which may be affected by the sale and of which the plaintiff has knowledge.
- If the name and address or whereabouts of the persons in subparagraphs (1) through (4) cannot be reasonably ascertained, the affidavit shall so state.
- (c) The affidavit required by subdivision (b) shall be substantially in the following form:

(Caption)
AFFIDAVIT PURSUANT TO RULE 3129.1

_____, plaintiff in the above action, sets forth as of the date the praecipe for the writ of execution was filed the following information concerning the real property located at _____:

(Describe the real property to be sold
or attach a description as an exhibit)

1. Name and address of owner(s) or reputed owner(s):

Name	Address (if address cannot be reasonably ascertained, please so indicate)
_____	_____
_____	_____
_____	_____

2. Name and address of defendant(s) in the judgment:

Name	Address (if address cannot be reasonably ascertained, please so indicate)
_____	_____
_____	_____
_____	_____

3. Name and address of every judgment creditor whose judgment is a record lien on the real property to be sold:

Name	Address (if address cannot be reasonably ascertained, please so indicate)
_____	_____
_____	_____
_____	_____

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4. Name and address of the last recorded holder of every mortgage of record:

Name	Address (if address cannot be reasonably ascertained, please so indicate)
_____	_____
_____	_____
_____	_____

5. Name and address of every other person who has any record lien on their property:

Name	Address (if address cannot be reasonably ascertained, please so indicate)
_____	_____
_____	_____
_____	_____

6. Name and address of every other person who has any record interest in the property and whose interest may be affected by the sale:

Name	Address (if address cannot be reasonably ascertained, please so indicate)
_____	_____
_____	_____
_____	_____

7. Name and address of every other person of whom the plaintiff has knowledge who has any interest in the property which may be affected by the sale:

Name	Address (if address cannot be reasonably ascertained, please so indicate)
_____	_____
_____	_____
_____	_____

(Attach separate sheet if more space is needed)

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date	Plaintiff
------	-----------

Source

The provisions of this § 3129.1 adopted March 6, 1989, effective July 1, 1989, 19 Pa.B. 1282.

Rule 3129.2. Notice of sale; handbills; written notice; publication.

(a) Notice of the sale of real property shall be given by handbills as provided by subdivision (b), by written notice as provided by subdivision (c) to all persons whose names and addresses are set forth in the affidavit required by Rule 3129.1, and by publication as provided by subdivision (d).

Official Note: Where real estate subject to federal liens is sold in execution under a judgment by confession, see the provisions of the Federal Tax Lien Act of 1966 adding sec. 7425(c) to the Internal Revenue Code, 26 U.S.C.A. § 7425(c), providing for notice to the United States.

As to judgments entered after December 1, 1973, see Rule 236 requiring notice of entry by the prothonotary.

(b) The handbills shall be posted by the sheriff in the sheriff's office and upon the property at least thirty days before the sale, and shall include

(1) a brief description of the property to be sold, its location, any improvements, the judgment of the court on which the sale is being held, the name of the owner or reputed owner, and the time and place of sale, and

(2) a notice directed to all parties in interest and claimants that a schedule of distribution will be filed by the sheriff on a date specified by the sheriff not later than thirty days after the sale and that distribution will be made in accordance with the schedule unless exceptions are filed thereto within ten days after the filing of the schedule.

(c) The written notice shall be prepared by the plaintiff, shall contain the same information as the handbills or may consist of the handbill and shall be served at least thirty days before the sale on all persons whose names and addresses are set forth in the affidavit required by Rule 3129.1.

(1) Service of the notice shall be made

(i) upon a defendant in the judgment who has not entered an appearance and upon the owner of the property.

(A) by the sheriff or by a competent adult in the manner prescribed by Rule 402(a) for the service of original process upon a defendant, or

Note: See Rule 76 for the definition of "competent adult."

(B) by the plaintiff mailing a copy in the manner prescribed by Rule 403 to the addresses set forth in the affidavit; or

(C) if service cannot be made as provided in subparagraph (A) or (B), the notice shall be served pursuant to special order of court as prescribed by Rule 430, except that if original process was served pursuant to a special order of court under Rule 430 upon the defendant in the judgment, the notice may be served upon that defendant in the manner provided by the order for service of original process without further application to the court; and

(ii) upon the defendant in the judgment who has entered an appearance, by the plaintiff in the manner provided by Rule 440, and

(iii) upon each other person named in the affidavit by the plaintiff by ordinary mail at the address set forth in the affidavit with the return address of the plaintiff appearing thereon. The plaintiff shall obtain from the U.S. Postal Service a Form 3817 Certificate of Mailing. Service shall be complete upon mailing. If the mail is returned the validity of the service shall not be impaired and the sale shall proceed at the time fixed in the notice.

(2) The person serving the notice shall file a return of service as provided by Rule 405. If service is made by mail pursuant to subdivision (c)(1)(iii), the return shall include the certificate of mailing and the letter, if returned.

(3) If service on any person is not made at least thirty days prior to the date of the sale stated in the notice, such notice shall be deemed timely if the sale is stayed, continued, postponed or adjourned in accordance with Rule 3129.3 to a date certain which is at least thirty days after the date of the last required service.

Official Note: This rule does not state the effect of a failure to give the required notice. See *In re Tax Claim Bureau of Lehigh County 1981 Upset Tax Sale Properties: Appeal of Dian K. Hass*, 96 Pa. Commw. 452, 507 A.2d 1294 (1986), involving the failure to give notice of a tax sale.

(d) Notice containing the information required by subdivision (b) shall also be given by publication by the sheriff once a week for three successive weeks in one newspaper of general circulation in the county and in the legal publication, if any, designated by rule of court for publication of notices, the first publication to be made not less than twenty-one days before the date of sale. No additional publication shall be required.

Official Note: See Note to Rule 3128 as to time, terms and conditions of sale. See also Rule 3131 as to advertisement where a parcel of real property extends across county lines.

Source

The provisions of this Rule 3129.2 adopted March 6, 1989, effective July 1, 1989, 19 Pa.B. 1282; amended April 1, 1996, effective July 1, 1996, 26 Pa.B. 1806; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended June 14, 1999, effective September 1, 1999, 29 Pa.B. 3191; amended December 21, 2010, effective January 21, 2011, 41 Pa.B. 333. Immediately preceding text appears at serial pages (348659) to (348660). (*Editor's Note:* The Supreme Court of Pennsylvania has suspended its order of June 14, 1999, published at 29 Pa.B. 3191 (June 26, 1999). See 29 Pa.B. 4859 (September 18, 1999).)

Rule 3129.3. Postponement of Sale. New Notice. Failure of Plaintiff to Attend Sale.

(a) Except as provided by subdivision (b) or special order of court, new notice shall be given as provided by Rule 3129.2 if a sale of real property is stayed, continued, postponed or adjourned.

(b)(1) If the sale is stayed, continued, postponed or adjourned to a date certain within one hundred thirty days of the scheduled sale, notice of which sale was given as provided by Rule 3129.2, and public announcement thereof, including the new date, is made to the bidders assembled at the time and place fixed

for the sale, no new notice as provided by Rule 3129.2 shall be required, but there may be only two such stays, continuances, postponements or adjournments within the one hundred thirty day period without new notice.

(2)(i) When the sale is stayed, continued, postponed or adjourned as provided by subdivision (b)(1), the plaintiff shall file

(A) a notice of the date of continued sheriff's sale with the prothonotary at least fifteen days before the continued sale date, and

(B) a certificate of filing with the sheriff confirming the filing of the notice of the date of continued sheriff's sale with the prothonotary.

The sheriff shall continue the sale to the next available sale date if the notice of the date of continued sheriff's sale has not been timely filed. This continuance imposes a new obligation on the plaintiff to meet the requirements described in (b)(2)(i)(A) and (B).

(ii) Non-compliance with this subdivision is not a basis for setting aside the sheriff's sale unless raised prior to the delivery of the sheriff's deed. The sale shall be set aside only upon a showing of prejudice.

Official Note: This subdivision supersedes other provisions of these rules limiting the number of times a sale may be continued, including the provisions of subdivision (b)(1).

(3)(i) The notice required by subdivision (b)(2) shall be substantially in the following form:

(Caption)

Notice of the Date of Continued Sheriff's Sale

The Sheriff's Sale scheduled for _____, ____ at __ : __ __ M. in the above-captioned matter has been continued until _____, ____ at __ : __ __ M.

Date: _____

By: _____

(Attorney for Plaintiff)

(Address)

(Phone)

(ii) The certificate of filing required by subdivision (b)(2) shall be in substantially the following form:

(Caption)

Certificate of Filing

On this date, I filed with the Prothonotary of _____ County a copy of the Notice of the Date of Continued Sheriff's Sale in the above-captioned matter.

Date: _____

By: _____

(Attorney for Plaintiff)

(Address)

(Phone)

(c) If the plaintiff or a representative of the plaintiff is not present at the sale, the real property shall not be sold. The sheriff shall return the writ of execution to the prothonotary and file a return pursuant to Rule 3139 indicating that the real property was not sold because the plaintiff or a representative of the plaintiff was not present at the sale. Thereafter, the writ may be reissued pursuant to Rule 3106.

Source

The provisions of this Rule 3129.3 adopted March 6, 1989, effective July 1, 1989, 19 Pa.B. 1282; amended October 24, 2006, effective January 1, 2007, 36 Pa.B. 6849; amended March 7, 2014, effective April 7, 2014, 44 Pa.B. 1750. Immediately preceding text appears at serial pages (355814) and (323361).

Rule 3130. Sale of securities.

A security listed on any recognized stock exchange or negotiable document of title regularly traded on any recognized commodity exchange may be sold by the sheriff at regular sheriff's sale or on said stock or commodity exchange through any broker authorized to deal therein. Securities and negotiable documents of title not listed on any recognized stock or commodity exchange but regularly traded over-the-counter by brokers authorized to deal therein, may be sold by the sheriff at regular sheriff's sale or, after notice to the defendant as the court by local rule or special order may prescribe, through any broker authorized to deal therein, upon such terms and conditions as the court may direct.

Source

The provisions of this Rule 3130 amended November 14, 1978, effective December 2, 1978, 8 Pa.B. 3410. Immediately preceding text appears at serial page (25034).

Rule 3131. Sale of real property located in more than one county.

(a) Where real property to be sold in execution consists of an interest in a single tract of land which lies in more than one county, the writ shall be directed to the sheriff of one of those counties and the plaintiff shall file a petition with the court of that county for leave to sell the same at execution.

(b) The petition shall set forth

- (1) a description of the real property;
- (2) whether the property is severable and whether the portion within either county can be sold separately without prejudice to the remainder; and
- (3) the estimated value of the property within each county and if the value in any county is insufficient to satisfy the judgment, a statement of how much of the property in adjoining counties is required to be included in the order of sale.

(c) The court may enter judgment upon the pleadings or take evidence by deposition or otherwise, shall order the extent of the real property which shall be subjected to execution, describing it by metes and bounds, shall designate the place of sale, and shall control the distribution of the proceeds of sale. The court

may apportion the proceeds so as to satisfy prior lienors, including those having a lien upon a portion of a single tract which lay in a different county and which was not sold on execution.

(d) If the order of the court directs a sale to include land in another county, a copy of the pleadings and the order of the court shall be filed by the plaintiff in the office of the prothonotary of such other county and indexed therein. Notice of the sale shall be advertised in each county.

Source

The provisions of this Rule 3131 adopted March 30, 1960, effective November 1, 1960; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (255365) to (255366).

Rule 3132. Setting aside sale.

Upon petition of any party in interest before delivery of the personal property or of the sheriff's deed to real property, the court may, upon proper cause shown, set aside the sale and order a resale or enter any other order which may be just and proper under the circumstances.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3133. Lien creditor as purchaser.

Whenever real or personal property sold on execution is purchased by the plaintiff or any other lien creditor entitled to receive all or part of the proceeds of the sale, the sheriff upon proof of that fact shall accept on account of the purchase price the receipt of the purchaser up to the amount of the proceeds to which the purchaser is entitled. The sheriff may require payment in cash of all legal costs distributable from the proceeds of the sale.

Source

The provisions of this Rule 3133 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243918).

Rule 3134. Transfer of personal property to purchaser.

When selling personal property in execution the sheriff shall, upon request of the purchaser, execute and deliver to the purchaser a sheriff's bill of sale setting forth the caption of the case and a description of the property. When selling securities or documents of title, the sheriff shall, upon request, endorse said document in the name of the defendant as follows:

“Defendant _____ (Name of Defendant) by _____, Sheriff of _____ County, pursuant to execution upon a judgment against the above named in the Court of _____ County, at Case Number _____.”

Official Note: Sections 1114 and 1116 of the Vehicle Code, 75 Pa.C.S. §§ 1114, 1116, relating to transfer of vehicle by operation of law and prescribing the procedure, remain suspended by these rules.

Source

The provisions of this Rule 3134 adopted March 30, 1960, effective November 1, 1960; amended April 18, 1975, effective immediately; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026. Immediately preceding text appears at serial page (213418).

Rule 3135. Sheriff's Deed to Real Property. Correction of Deed.

(a) When real property is sold in execution and no petition to set aside the sale has been filed, the sheriff, at the expiration of twenty days but no later than 40 days after either the filing of the schedule of distribution or the execution sale if no schedule of distribution need be filed, shall execute and acknowledge before the prothonotary a deed to the property sold. The sheriff shall forthwith deliver the deed to the appropriate officers for recording and for registry if required. Confirmation of the sale by the court shall not be required.

Official Note: See Rule 3136(a) governing the filing of the schedule of distribution.

(b) If the sheriff has made a defective return of the execution proceeding or has executed a defective deed, including the erroneous description of the real estate, the court upon petition of the purchaser or the purchaser's successors in title may correct the return or deed or order that a new return or deed be executed.

(c) If the plaintiff has failed to give notice to a lienholder, junior in lien priority to the mortgage being foreclosed upon or the judgment being executed, the plaintiff, or its assigns, or the purchaser at the sheriff's sale may file a petition with rule to show cause requesting that:

- (1) the lien held by the junior lienholder be divested, or
- (2) if the plaintiff, or its assigns, is the purchaser at the sheriff's sale, another sheriff's sale be held in which only the junior lienholder specified in the petition may be the only bidder allowed other than the senior lienholder who acquired the property at the sheriff's sale, or
- (3) such relief as may be approved by order of court.

Source

The provisions of this Rule 3135 adopted March 30, 1960, effective November 1, 1960; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026; amended November 2, 2005, effective January 1, 2006, 35 Pa.B. 6320; amended July 28, 2010, effective September 1, 2010, 40 Pa.B. 4635; amended March 7, 2014, effective April 7, 2014, 44 Pa.B. 1750. Immediately preceding text appears at serial page (352471).

Rule 3136. Distribution of proceeds.

(a) Not later than thirty days after the sale of real property and not later than five days after the sale of personal property, the sheriff shall prepare a schedule of proposed distribution of the proceeds of sale which shall be filed in the prothonotary's office. No schedule of distribution or list of liens need be filed when the property is sold to the plaintiff for costs only.

(b) When a receipt of the plaintiff or other lien creditor has been accepted on account of the purchase price the schedule shall set forth the name and address of the plaintiff or lien creditor, the amount of the judgment or lien, identifying it, and the amount of credit claimed and allowed upon the purchase price.

(c) In sales of real property the sheriff shall attach to the schedule a list of liens upon the property sold as certified from the record by the proper officers or a guaranteed search from any title company authorized to do business within the county. The cost of certifying the list of liens or the title search, the acknowledgment, recording and registry of the deed and transfer or documentary stamps shall be charged as an expense of distribution.

(d) The sheriff shall distribute the proceeds of sale in accordance with the proposed schedule of distribution, unless written exceptions are filed with the sheriff not later than ten (10) days after the filing of the proposed schedule.

(e) Upon the filing of exceptions, the sheriff shall transmit them to the prothonotary together with a copy of the proposed schedule of distribution.

(f) The court shall determine the exceptions, and for this purpose may receive evidence by deposition or otherwise, or may appoint an auditor to hear the evidence and report to the court.

(g) The proceeds of sale need not be paid into court by the sheriff but upon petition of the sheriff or any party in interest, the court may order the proceeds to be paid into court to await distribution or may order the sheriff to invest the fund for distribution pending final disposition of the exceptions or an appeal therefrom.

(h) If the sheriff receives any money for costs or in connection with a stay, adjournment or postponement of sale or otherwise, the sheriff shall account for it on returning the writ.

Source

The provisions of this Rule 3136 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281; amended May 29, 2015, effective July 1, 2015, 45 Pa.B. 2825. Immediately preceding text appears at serial pages (371496) to (371497).

Rule 3137. Priority of distribution as between competing plaintiffs.

(a) When levies are made against the same personal property under two or more writs of separate plaintiffs, priority of distribution between them of the proceeds of a sheriff's sale thereof shall be determined by the time of delivery of their respective writs to the sheriff for execution.

(b) When property is attached by service upon the garnishee of two or more writs of separate plaintiffs priority of distribution between them shall be determined by the date of service of their respective writs upon the garnishee as to all property then in the hands of the garnishee or coming into the garnishee's possession up to time of judgment against the garnishee.

(c) When tangible personal property is both levied upon and attached under two or more writs of separate plaintiffs, priority of distribution as between the levying and attaching plaintiffs shall be determined by the time of delivery of the writ to the sheriff in the case of levy, and from the date of service of the writ upon the garnishee in the case of attachment.

Official Note: Under Rule 3115(a), a levy under any valid writ constitutes a levy by endorsement under every other valid writ then in the sheriff's hands. For limitations on attachment of tangible personal property see Rule 3108(a).

Source

The provisions of this Rule 3137 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243920).

Rule 3138. Sheriff's expenses and fees; recovery as costs; abandonment of writ for non-payment.

(a) The plaintiff shall pay to the sheriff all costs, charges, and expenses incident to the execution, the maintenance of the lien of the execution and the preservation of the property. These items shall be deemed taxable costs for refund to the plaintiff from the proceeds of any sale, except that the plaintiff shall not be entitled to recover the costs in connection with writs determined by the court to be unnecessary and oppressive.

(b) If the plaintiff fails to make payment promptly upon demand of the sheriff's proper fees and costs, the sheriff shall be relieved of liability for loss, removal or distribution of the property and may return the writ as abandoned.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3139. Sheriff's return.

(a) The sheriff shall make a return

(1) upon the completion or abandonment of the execution proceedings or if no sale is effected for want of buyers; or

(2) upon the expiration of the period allowed for service or levy, if service upon a garnishee or levy has not been made and the writ has not been reissued.

(b) The sheriff shall make an immediate return of service upon serving a garnishee, but may retain the writ for further proceedings.

Official Note: If service or levy has been made within the 90 day period allowed by Rule 3106(d), the writ remains valid for all subsequent proceedings thereafter without further reissuance.

(c) The return of the sheriff shall be made to the prothonotary of the county in which the writ issued and shall include any schedule of distribution required under these rules.

(d) If real property is sold by the sheriff under a writ of execution from another county, a copy of the sheriff's return shall also be filed by the sheriff with the prothonotary of the county in which the real property is located.

Source

The provisions of this Rule 3139 amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (213421).

Rule 3140. Notice by garnishee.

(a) Upon being served with the writ, the garnishee shall promptly forward a copy to the defendant.

(b) Upon filing his answers to interrogatories the garnishee shall promptly forward a copy to the defendant.

(c) A copy is forwarded within the requirement of this rule when it is delivered to the defendant by an adult at any place within or without the Commonwealth in the manner prescribed by Rule 402(a) for service of original process or when it is mailed to the defendant by registered mail directed to his last known address.

Official Note: Registered mail includes certified mail. See Definition Rule 76.

Attachment of wages, salary and commissions to satisfy a money judgment arising from a residential lease pursuant to Section 8127(a)(3.1) of the Judicial Code is governed by Rule 3301 et seq.

(d) Where funds in an account are not attached as a result of Rule 3111.1, the garnishee shall not assess any fee against exempt funds contained in any account held by the garnishee.

Source

The provisions of this Rule 3140 adopted March 30, 1960, effective November 1, 1960; amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended June 14, 1999, effective September 1, 1999, 29 Pa.B. 3191; amended December 21, 2005, effective one month after the date of the Order, 36 Pa.B. 176; amended April 16, 2010, effective May 17, 2010, 40 Pa.B. 2243. Immediately preceding text appears at serial pages (316413) to (316414). (*Editor's Note:* The Supreme Court of Pennsylvania has suspended its order of June 14, 1999, published at 29 Pa.B. 3191 (June 26, 1999). See 29 Pa.B. 4859 (September 18, 1999).)

Rule 3141. Garnishee's duty to defend; venue of proceedings.

(a) Except as provided in Rule 3111.1 a garnishee who forwards copies of the writ and answers to interrogatories to the defendant shall thereafter be under no duty to resist the attachment or defend the action against the defendant in any manner but may do so as provided by these rules.

Official Note: See Rule 3142 authorizing preliminary objections; Rule 3121 as to stay; Rule 3143(f), (g), (h), as to non pros; Rule 3145 as to defenses. Failure to answer interrogatories or to file a sufficient answer may result in judgment against the garnishee. See Rules 3146 and 3147.

(b) When the writ is issued to another county, preliminary objections, proceedings for stay, or release of property from attachment, answers to interrogatories, or other matters relating to the attachment, may at the option of the garnishee be filed or taken by the garnishee in the county to which the writ is directed or from which it issued. If filed or taken in the county to which the writ is directed, copies thereof and any order of the court thereon shall also be forwarded to the prothonotary of the county in which the writ issued, and to the plaintiff and the defendant or their attorneys, and shall contain or have attached

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an election of optional venue in the garnishee county. A copy is forwarded within the meaning of this rule if it is sent in the manner provided by Rule 3140(c).

Source

The provisions of this Rule 3141 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281; amended April 16, 2010, effective May 17, 2010, 40 Pa.B. 2243. Immediately preceding text appears at serial page (316414).

Rule 3142. Preliminary objections.

(a) The defenses of immunity or exemption of property from attachment or a question of jurisdiction over the garnishee may be raised by preliminary objections filed by the defendant or the garnishee.

Official Note: See also Rule 3145(b) authorizing the garnishee to raise the defenses of immunity or exemption by answer to interrogatories and Rule 3121(d) authorizing the court, on application of any party in interest, to set aside the writ, service or levy upon a showing of exemption or immunity of property from execution or upon any other legal or equitable grounds therefor.

(b) Preliminary objections shall state specifically the grounds relied upon. All preliminary objections shall be raised at one time. They may be inconsistent.

(c) A question of jurisdiction may be raised only by preliminary objections which shall be filed before the garnishee enters an appearance or files an answer to interrogatories. Exemption or immunity of property from execution may be raised at any time.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3143. Dissolution of attachment; release of property; bond.

(a) An attachment is not dissolved by the death or dissolution of a defendant or garnishee.

(b) (1) An attachment is dissolved when any person or party

(i) files with the prothonotary a bond, with security approved by the prothonotary, in the amount of plaintiff's judgment, including probable interest and costs, or in such lesser amount as the court may direct, naming the Commonwealth of Pennsylvania as obligee, conditioned to pay the plaintiff the amount finally determined to be due by the garnishee or the value of the property whichever is less, or

(ii) deposits with the prothonotary, or with the sheriff for the prothonotary, to be held by the prothonotary or the sheriff upon the same condition as the bond, security in the form of legal tender of the United States in an amount equal to the plaintiff's judgment, including probable interest and costs, or in such lesser amount as the court may direct.

(2) Upon the filing of the bond or security, the garnishee shall be discharged from further liability for payment under the attachment, but the attachment shall be prosecuted to final judgment for the purpose of determining the amount, if any, due by the garnishee to the defendant or the value of the property attached.

(c) Specific property is released without dissolving the attachment when any person or party gives bond or security, as provided by Subdivision (b) of this rule, in an amount based upon the value of the property to be determined by the court, and conditioned to pay the plaintiff the amount of the final judgment against the defendant or the value of the property released, whichever is less.

Official Note: For further remedies available to a third person claiming attached property, see Rules on Intervention, 2326 et seq.; Rules on Interpleader, 2301 et seq., and Rules on Sheriff's Interpleader, 3201 et seq.

(d) The court on petition of any party may, at any time after notice and hearing, release part of the attached property if the value of the property attached is excessive compared to the amount in controversy.

(e) If the attachment is dissolved or property is released, the property shall be returned to the person from whom it was taken.

(f) The prothonotary, on praecipe of the garnishee or defendant, shall enter a rule on the plaintiff to file interrogatories. If the plaintiff fails to comply with the

rule within twenty days after service, the prothonotary, upon praecipe of the garnishee, shall enter judgment of non pros against the plaintiff and in favor of the garnishee, which shall dissolve the attachment as to the garnishee.

(g) At any time after the filing of answers to the interrogatories and service of a copy upon the plaintiff, the prothonotary, on praecipe of the garnishee, shall enter a rule on the plaintiff to (1) seek judgment against the garnishee under Rule 3146(b) or (2) place the issue between the plaintiff and garnishee upon the list for trial. If the plaintiff fails to comply with the rule within twenty days after service, the prothonotary, on praecipe of the garnishee, shall enter judgment of non pros against the plaintiff in favor of the garnishee, which shall dissolve the attachment as to the garnishee.

(h) The court on petition of any party may, at any time after notice and hearing, dissolve the attachment if the plaintiff has not prosecuted it with diligence.

Source

The provisions of this Rule 3141 adopted March 30, 1960, effective November 1, 1960; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial pages (213422) and (243921) to (243922).

Rule 3144. Interrogatories to garnishee.

(a) The plaintiff may, at the time of issuance of the writ or thereafter, file and serve interrogatories directed to the garnishee respecting property of the defendant in the garnishee's possession. The plaintiff in the interrogatories may require the garnishee to include in the answer, so far as relevant, the names and addresses of persons taking part in any transaction, the specific amount of any debt, the value and location of any property and the nature and amount of consideration given for any transfer of property.

Official Note: See Rule 3101 defining property in possession of garnishee.

(b) The interrogatories shall contain a notice to answer within twenty days after service.

Official Note: For form of interrogatories, see Rule 3253 infra.

Source

The provisions of this Rule 3144 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243922).

Rule 3145. Interrogatories; procedure.

(a) The procedure between the plaintiff and the garnishee shall, as far as practicable, be the same as though the interrogatories were a complaint and the answer of the garnishee were an answer in a civil action.

- (b) The garnishee in the answer under “new matter” may include
 - (1) the defenses of the immunity or exemption of property;
 - (2) any defense or counterclaim which the garnishee could assert against the defendant if sued by the defendant but the garnishee may not assert any defense on behalf of the defendant against the plaintiff or otherwise attack the validity of the attachment;

Official Note: Objections to the attachment, other than the defenses of immunity or exemption, must be raised preliminarily. See Rule 3142.

- (3) any claim which the garnishee could assert against the plaintiff if sued by the plaintiff.

Source

The provisions of this Rule 3145 adopted March 30, 1960, effective November 1, 1960; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243922).

Rule 3146. Judgment against garnishee upon default or admission in answer to interrogatories.

(a)(1) If the garnishee within the time allowed by these rules fails to file an answer to interrogatories containing a notice to answer, the prothonotary on praecipe of the plaintiff shall enter judgment unliquidated in amount, in favor of the plaintiff and against the garnishee. The amount of the judgment shall thereafter be assessed by the court on motion, notice to the garnishee with a copy to the defendant in the form provided by subdivision (a)(2), and hearing. At the hearing the garnishee may raise defenses against the judgment debtor available under Rule 3145, provided that written notice thereof has been given to all parties not less than ten days prior to the hearing. If the garnishee appears, the court shall determine and enter judgment for the value of the property of the defendant in the hands of the garnishee but shall not enter judgment in excess of the judgment of the plaintiff against the defendant together with interest and costs. If the garnishee fails to appear, or if appearing offers no evidence, the amount of the judgment shall thereupon be entered in the amount of the plaintiff’s judgment against the defendant together with interest and costs, and the court may also award to the plaintiff reasonable expenses including attorney’s fees.

- (2) The notice required by subdivision (a)(1) shall be in substantially the following form:

NOTICE OF ASSESSMENT OF DAMAGES

To _____, Garnishee:

On _____, you were served with a writ of execution as a garnishee and were notified of your duties under it.

Judgment has been entered against you because you have failed to answer the interrogatories served with the writ. The court will assess the amount of the judgment at a hearing to be held on _____,

at _____, _____ M., in Courtroom _____, County Court-
house, _____, Pa. If you fail to appear, damages will be assessed against you in the
amount of the judgment of the plaintiff against the defendant, \$ _____, together with interest,
costs and reasonable expenses including attorney’s fees, whether or not you may owe anything to the
defendant or hold any of the defendant’s property.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE
A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN
PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PRO-
VIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES
TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

(b)(1) Subject to paragraph (2) of this subdivision, the prothonotary, on
praecipe of the plaintiff, shall enter judgment against the garnishee for the prop-
erty of the defendant admitted in the answer to interrogatories to be in the gar-
nishee’s possession, subject to any right therein claimed by the garnishee, but no
money judgment entered against the garnishee shall exceed the amount of the
judgment of the plaintiff against the defendant together with interest and costs.
The entry of judgment shall not bar the right of the plaintiff to proceed against
the garnishee as to any further property or to contest any right in the property
claimed by the garnishee.

(2) If the garnishee is a bank or other financial institution, the prothono-
tary, in the absence of an order of court, shall not enter judgment pursuant to
paragraph (1) of this subdivision as to funds of any account of the defendant
that is identified in the garnishee’s answer to interrogatory no. 7 or 8.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Source

The provisions of this Rule 3146 amended December 10, 1981, effective February 8, 1982, 12
Pa.B. 267; amended June 10, 2003, effective September 1, 2003, 33 Pa.B. 2974; amended February
7, 2007, effective April 1, 2007, 37 Pa.B. 939. Immediately preceding text appears at serial pages
(255373), (255374) and (297583) to (297584).

Rule 3147. Judgment against garnishee on pleadings or after trial.

If the court enters judgment for the plaintiff and against the garnishee upon
pleadings or after trial, the judgment shall be for the property of the defendant
found to be in the garnishee’s possession, but no money judgment entered against
the garnishee shall exceed the amount of the judgment of the plaintiff against the
defendant together with interest and costs.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3148. Content of judgment against garnishee; execution.

(a) A judgment entered against the garnishee under Rules 3146(b) or 3147, shall

(1) be in the form of a money judgment if the garnishee owes a debt to the defendant;

(2) specify any other property of the defendant in the possession of the garnishee; and

(3) be in the form of a charging order in the case of attachment against a partnership interest.

(b) If a money judgment is entered against the garnishee the plaintiff may have execution against the garnishee generally for the amount of the judgment.

(c) If judgment is entered against the garnishee for specific property of the defendant determined to be in the possession of the garnishee, the plaintiff may have execution against the property. If the garnishee fails to make the property available to the sheriff for execution, the plaintiff upon leave of court may have execution against the garnishee generally for the amount of the plaintiff's judgment against the defendant, together with interest and costs, unless the garnishee shows good cause for nonproduction of the property, or that its value is less than the amount of plaintiff's judgment, interest and costs, in which event judgment shall be entered for the lesser amount.

(d) If the garnishee is found to have a lien upon the property, the rights of all parties may be enforced by a conditional verdict or order.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3149. Objection to security.

The court on the petition of any person or party may at any time after notice and hearing

- (1) review the action of the prothonotary or sheriff in approving or rejecting any bond or security offered;
- (2) increase or decrease the amount of any bond or security;
- (3) strike off a bond improperly filed; or
- (4) permit the substitution of a bond or security and enter exoneration of a prior bond.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3159. Acts of Assembly not suspended.

(a) The following Acts of Assembly shall not be deemed suspended or affected:

- (1) Section 428 of the Act approved June 2, 1915, P. L. 736, as amended, 77 P. S. § 951.

Official Note: This Section of the Workmen's Compensation Act provides that execution may issue on a workmen's compensation judgment upon first filing with the prothonotary an affidavit of default in payments.

- (2) Section 1 of the Act approved May 7, 1929, P. L. 1589, as amended, 68 P. S. § 322.

Official Note: This Act provides for landlord's priority for rent under execution sale against tenant.

- (3) Section 1711 of the Act of June 24, 1931, P. L. 1206, as amended, 53 P. S. § 56711.

Official Note: This section of the First Class Township Code provides for a special levy to pay debts.

- (4) Section 3205 of the Act of May 1, 1933, P. L. 103, No. 69, as amended, 53 P. S. § 68205.

Official Note: Subdivision (b) of this section of the Second Class Township Code provides for a special levy to pay debts.

- (5) Section 712 of the Act of May 15, 1933, P. L. 565, as amended, 71 P. S. § 733-712.

Official Note: This section requires leave of court for execution against a financial institution of which the Secretary of Banking is in possession as receiver.

- (6) Section 1 of the Act approved May 24, 1933, P. L. 987, 40 P. S. § 117.

Official Note: This Section relates to the right of plaintiff to maintain an action against an indemnity insurer upon return of execution unsatisfied against insured.

- (7) Section 21 of the Act approved April 6, 1937, P. L. 200, 63 P. S. § 281-21.

Official Note: This section relates to pawnbrokers' liens on pledged goods and the prohibition against legal process requiring a pawnbroker to deliver a pledge without surrender of the ticket unless the ticket has been impounded or its negotiation enjoined.

(8) Section 611 of the Act of March 10, 1949, P. L. 30, as amended, 24 P. S. § 6-611.

Official Note: This section of the Public School Code of 1949 provides for the enforcement of judgments against school districts.

(9) As to boroughs, see the Borough Code of February 1, 1966, P. L. (1965) _____, No. 581, as amended, 53 P. S. § 46303.

Official Note: This section of the Borough Code provides for a special levy to pay debts.

(10) Any Act of Assembly providing immunity or exemption of property from execution.

Official Note: This Section is intended to preserve the numerous Acts of Assembly providing for immunity or exemption of particular types or classes of property from execution. The practice and procedure as to claiming or waiving exemption or immunity is governed by these rules.

(b) The following provisions of the Consolidated Statutes shall not be deemed suspended or affected:

(1) Section 5107 of the Pennsylvania Uniform Fraudulent Transfer Act, 12 Pa.C.S. § 5107.

Official Note: This section of the Pennsylvania Uniform Fraudulent Transfer Act relates to remedies of creditors.

(2) The Uniform Commercial Code, 13 Pa.C.S. § 1101 et seq.

(3) Section 8345 of Associations Code, 15 Pa.C.S. § 8345.

Official Note: This Section of the Uniform Partnership Act relates to charging orders in execution against partnership interests.

(4) Section 8563 of the Associations Code, 15 Pa.C.S. § 8563.

Official Note: This Section of the Pennsylvania Revised Limited Partnership Act relates to charging orders in execution against limited partnership interests.

(5) Section 3377 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 3377.

Official Note: This section of the Probate, Estates and Fiduciaries Code provides that execution shall not issue against property of the estate of a decedent upon judgment, other than mortgages, ground rents, pledges or conditional sales of real or personal property, without agreement in writing of the personal representative or approval of the Orphans' Court.

(6) Section 2503(2) and (3) of the Judicial Code, 42 Pa.C.S. § 2503(2) and (3).

Official Note: These sections relate to the right of a garnishee to receive counsel fees.

(7) Section 5105(f) of the Judicial Code, 42 Pa.C.S. § 5105(f).

Official Note: This Section provides that the reversal or modification of any order of a court in a matter in which the court has jurisdiction of the sale, mortgage, exchange or conveyance of real or personal property shall not impair or divest any estate or interest acquired thereunder by a person not a party to the appeal.

(8) Section 8151 of the Judicial Code, 42 Pa.C.S. § 8151.

Official Note: This section requires officers conducting judicial sales of property to give twenty days notice in writing to the Pennsylvania Department of Revenue.

(9) Sections 8123(b)(3) and (4) of the Judicial Code, 42 Pa.C.S. §§ 8123(b)(3) and (4).

Official Note: These Sections provide that there shall be no exemption of property in executions upon judgments for board for four weeks or less or for wages of \$100 or less for manual labor.

(10) Section 8127(b) of the Judicial Code, 42 Pa.C.S. § 8127(b).

Official Note: This Section prohibits the commencement of actions or transfer of claims for collection outside of the Commonwealth to defeat a claim for exemption.

(11) Sections 1114 and 1116 of the Vehicle Code, 75 Pa.C.S. §§ 1114, 1116.

Official Note: These sections relate to change of ownership by operation of law and the issuance of certificates of title.

Source

The provisions of this Rule 3159 adopted April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026.

Subchapter E. ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS

ACTION OF EJECTMENT

Rule	
3160.	Judgment; execution.
3161.	Conformity to rules governing enforcement of judgments for payment of money.
3161.1.	Commencement.
3162.	Stay of execution; setting aside execution.
3163.	Possession of real property located in more than one county.
3164.	Sheriff's return.
3165.	Reentry by defendant; new writ of possession.

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- 3170. Judgment; enforcement.
- 3171. Conformity to rules governing enforcement of judgments for payment of money.
- 3172. Stay of execution; setting aside execution.
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- 3180. Judgments; execution.
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- 3234. Sheriff's interpleader proceedings [Rescinded].

ACTS OF ASSEMBLY SUSPENDED

- 3241. Acts of Assembly suspended. [Rescinded].
- 3242. Action of ejectment. [Rescinded].
- 3243. Action of replevin. [Rescinded].
- 3244. Action of mortgage foreclosure. [Rescinded].
- 3245. Action upon mechanic's liens, municipal claims, tax claims, and charges on land. [Rescinded].
- 3246. Sheriff's interpleader proceedings [Rescinded].

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AFTER JUDGMENT**

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- 3287. Parties.
- 3288. Petition. Averments. Notice to Defend.
- 3289. Service.
- 3290. Order Upon Default or Admission.
- 3291. Trial.

ACTION OF EJECTMENT

Rule 3160. Judgment; execution.

A judgment for possession shall be enforced by a writ of possession substantially in the form provided by Rule 3254. If the judgment includes rents, profits or damages, execution for such rents, profits or damages shall be in accordance with the rules governing the enforcement of judgments for the payment of money.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Source

The provisions of this Rule 3160 amended March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial pages (223297) to (223298).

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Rule 3161. Conformity to rules governing enforcement of judgments for payment of money.

The procedure for the enforcement of a judgment for possession shall be in accordance with the rules governing the enforcement of judgments for the payment of money with respect to the following:

- (a) Commencement and Issuance of Writ:—Rules 3103(e) and 3105.
- (b) Substitution, Reissuance and Expiration of Writ:—Rules 3106(b) and 3106(d).
- (c) Security for Sheriff:—Rule 3116.
- (d) Supplementary Relief in Aid of Execution:—Rule 3118, insofar as applicable.
- (e) Sheriff's Expenses and Fees, Recovery as Costs, Abandonment of Writ for Nonpayment:—Rule 3138.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Source

The provisions of this Rule 3161 amended April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814. Immediately preceding text appears at serial pages (136930) to (136931).

Rule 3161.1. Commencement.

Execution shall be commenced by filing a praecipe for a writ of execution with the prothonotary of any county in which judgment has been entered. Except as otherwise prescribed by Rule 2974.1 governing a judgment entered by confession, the praecipe shall be in the form prescribed by Rule 3254.

Source

The provisions of this Rule 3161.1 adopted April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814.

Rule 3162. Stay of execution; setting aside execution.

- (a) Execution shall be stayed as to all or any part of the property of the defendant
 - (1) upon written direction of the plaintiff to the sheriff;
 - (2) upon a showing of exemption or immunity of property from execution;
 - (3) upon a showing of a right to a stay under the provisions of an Act of Congress or an Act of Assembly.
- (b) Execution may be stayed by the court as to all or any part of the property of the defendant upon its own motion or application of any party in interest showing
 - (1) a defect in the writ or service; or
 - (2) any other legal or equitable ground.
- (c) In an order staying execution the court may impose such terms and conditions or limit the stay to such reasonable time as it may deem appropriate.

- (d) The court may on application of any party in interest set aside the writ or service
- (1) for a defect therein; or
 - (2) upon a showing of exemption or immunity of property from execution;
- or
- (3) upon any other legal or equitable ground.
- (e) All objections by the defendant shall be raised at one time.
- (f) After the termination of a stay, execution may proceed without reissuance of the writ.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3163. Possession of real property located in more than one county.

Where the real property consists of a single tract of land which lies in more than one county, the sheriff of the county in which the writ of possession issues may execute the writ in all counties in which the land lies. Deputization of the sheriff of another county shall not be required.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3164. Sheriff's return.

The sheriff shall make a return upon completion or abandonment of the execution proceedings.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3165. Reentry by defendant; new writ of possession.

After execution and return of the writ, if the defendant shall reenter into possession, the prothonotary, upon praecipe and affidavit setting forth the facts, filed within three years after the return of the writ on which execution was completed, shall issue a new writ of possession.

Source

The provisions of this Rule 3165 adopted March 30, 1960, effective November 1, 1960; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243932).

ACTIONS OF REPLEVIN

Rule 3170. Judgment; enforcement.

- (a) If judgment is entered for the party in possession, that party may recover damages and costs by execution or by recovery upon the bond.
- (b) If judgment is entered for a party not in possession, that party may obtain possession of the property by a writ of possession, or in the alternative may obtain the value of the property by execution on the judgment or by recovery

upon the bond. In any case, the party may recover damages and costs by execution or by recovery upon the bond.

Official Note: See rules 3101 et seq., governing Enforcement of Judgments for Payment of Money.

Source

The provisions of this Rule 3170 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial pages (243932) to (243933).

Rule 3171. Conformity to rules governing enforcement of judgments for payment of money.

The procedure for the enforcement of a judgment for possession shall be in accordance with the rules governing the enforcement of judgments for the payment of money with respect to the following:

- (a) Commencement and Issuance of Writ:—Rules 3103(a), 3103(e) and 3105.
- (b) Substitution, Reissuance and Expiration of Writ:—Rules 3106(a), 3106(b) and 3106(d).
- (c) Security for Sheriff:—Rule 3116.
- (d) Discovery in Aid of Execution:—Rule 3117.
- (e) Supplementary Relief in Aid of Execution:—Rule 3118, insofar as applicable.
- (f) Sheriff's Expenses and Fees, Recovery as Costs, Abandonment of Writ for Nonpayment:—Rule 3138.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3172. Stay of execution; setting aside execution.

- (a) Execution shall be stayed as to all or any part of the property of the defendant
 - (1) upon written direction of the plaintiff to the sheriff;
 - (2) upon a showing of exemption or immunity of property from execution;
 - (3) upon a showing of a right to stay under the provisions of an Act of Congress or an Act of Assembly.
- (b) Execution may be stayed by the court as to all or any part of the property of the defendant upon its own motion or application of any party in interest showing
 - (1) a defect in the writ or service; or
 - (2) any other legal or equitable ground.
- (c) In an order staying execution the court may impose such terms and conditions or limit the stay to such reasonable time as it may deem appropriate.
- (d) The court may on application of any party in interest set aside the writ or service
 - (1) for a defect therein; or
 - (2) upon a showing of exemption or immunity of property from execution;
 or

- (3) upon any other legal or equitable ground.
- (e) All objections by the defendant shall be raised at one time.
- (f) After the termination of a stay, execution may proceed without reissuance of the writ.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Rule 3173. Sheriff's return.

The sheriff shall make a return upon completion or abandonment of the execution proceedings.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

ACTION OF MORTGAGE FORECLOSURE

Rule 3180. Judgment. Execution.

(a) Judgment shall be enforced by a writ of execution substantially in the form provided by Rule 3257.

Official Note: Where judgment is entered on the obligation secured by the mortgage, execution shall be in accordance with the rules governing the enforcement of judgments for the payment of money.

(b) If the plaintiff is proceeding against both personal and real property covered by a mortgage as provided by Section 9604(a) of the Uniform Commercial Code and has complied with the pleading requirements of Rule 1147(b), the judgment may be enforced in one execution proceeding against both the personal and real property pursuant to the rules of this chapter governing execution on real property.

Official Note: Compliance with Rule 1147(b) governing the complaint in mortgage foreclosure is a prerequisite to executing in one proceeding pursuant to Rule 3180(b) against both the real and personal property secured by the mortgage.

The rules governing execution on personal property do not apply to an execution on personal property under subdivision (b).

For a similar provision applicable to the enforcement of a judgment entered on the obligation secured by the mortgage, see Rule 3101.2.

Source

The provisions of this Rule 3180 amended March 13, 2007, effective June 1, 2007, 37 Pa.B. 1411. Immediately preceding text appears at serial page (255378).

Rule 3181. Conformity to rules governing enforcement of judgments for payment of money.

(a) The procedure for the enforcement of a judgment against real property shall be in accordance with the rules governing the enforcement of judgments for the payment of money with respect to the following:

- (1) Commencement and Issuance of Writ:—Rules 3103(a), 3103(e), and 3105.
- (2) Substitution, Reissuance and Expiration of Writ:—Rules 3106(a) 3106(b) and 3106(d).
- (3) Security for Sheriff:—Rule 3116.

- (4) Supplementary Relief in Aid of Execution:—Rule 3118, insofar as applicable.
- (5) Abandonment of Levy:—Rule 3120.
- (6) Notice of Sale, Stay, Continuance:—Rule 3129.1 through .3.
- (7) Sale of Mortgaged Property Located in More than One County:—Rule 3131.
- (8) Setting Aside Sale:—Rule 3132.
- (9) Lien Creditors as Purchasers:—Rule 3133.
- (10) Sheriff's Deed, Distribution of Proceeds:—Rules 3135 and 3136.
- (11) Sheriff's Expenses and Fees, Recovery as Costs, Abandonment of Writ for Nonpayment:—Rule 3138.
- (12) Sheriff's Return:—Rules 3139(a)(1), 3139(c) and 3139(d).
- (b) The procedure for the enforcement of a judgment against both personal and real property as provided by Rule 3180(b) shall be in accordance with
 - (1) the rules governing the enforcement of judgments for the payment of money as provided by subdivision (a) and
 - (2) Rule 3201 et seq. governing sheriff's interpleader.

Official Note: Rule 3201 et seq. govern the procedure when tangible personal property levied upon is claimed to be the property of a person other than the defendant in the execution.

Source

The provisions of this Rule 3181 adopted March 30, 1960, effective November 1, 1960; amended March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441; amended March 13, 2007, effective June 1, 2007, 37 Pa.B. 1411. Immediately preceding text appears at serial pages (255378) to (255379).

Rule 3182. Service of writ; levy.

Service of the writ shall be made by the sheriff noting upon the writ a brief description of the mortgaged property and a statement that the sheriff has levied upon defendant's interest therein.

Official Note: Service of the writ upon the mortgagor or real owner is not required but notice of the sale is required by Rule 3129.1.

Source

The provisions of this Rule 3182 adopted March 30, 1960, effective November 1, 1960; amended November 6, 1975. Effective immediately, 5 Pa.B. 2978; amended March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243935).

Rule 3183. Stay of execution; setting aside execution.

- (a) Execution shall be stayed as to all or any part of the property of the defendant
 - (1) upon written direction of the plaintiff to the sheriff;
 - (2) upon a showing of exemption or immunity of property from execution;
 - (3) upon a showing of a right to a stay under the provisions of an Act of Congress or an Act of Assembly.

(b) Execution may be stayed by the court as to all or any part of the property of the defendant upon its own motion or application of any party in interest showing

- (1) a defect in the writ or service; or
- (2) any other legal or equitable ground.

(c) In an order staying execution the court may impose such terms and conditions or limit the stay to such reasonable time as it may deem appropriate.

(d) The court may on application of any party in interest set aside the writ or service

- (1) for a defect therein; or
- (2) upon a showing of exemption or immunity of property from execution; or
- (3) upon any other legal or equitable ground.

(e) All objections by the defendant shall be raised at one time.

(f) After the termination of a stay, execution may proceed without reissuance of the writ.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

ACTIONS UPON MECHANICS' LIENS, MUNICIPAL AND TAX CLAIMS AND CHARGES ON LAND

Rule 3190. Judgment; execution.

A judgment in rem in an action or proceeding upon a mechanics' lien, municipal claim, tax claim or a charge on land shall be enforced against the real property subject to the lien, claim or charge in accordance with Rules 3180 to 3183 governing the enforcement of judgments in mortgage foreclosure.

Official Note: Statutory procedures relating to enforcement of tax liens by sale under the Real Estate Tax Law of July 7, 1947, P. L. 1368, as amended, 72 P. S. § 5860.101 et seq., and other acts authorizing Treasurer's sale remain unsuspended.

Statutory provisions relating to municipal claims and liens remain unsuspended. See Rule 3191(a)(2)(i) through (viii) for provisions including special stay provisions, sequestration of rents, upset price, sale clear of lien and preferences.

See Rule 3191(b) for Acts of Assembly suspended insofar as they provide for units of *levari facias* and *scire facias*.

Source

The provisions of this Rule 3190 adopted July 21, 1961, effective October 1, 1961; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial page (213434).

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Rule 3191. Acts of Assembly.

(a) The rules governing the enforcement of a judgment in rem in an action or proceeding upon a mechanics' lien, municipal claim, tax claim or charge on land shall not be deemed to suspend or affect:

(1) Mechanic's Liens.

(i) Sections 303(c) and 508 of the Act of August 24, 1963, P. L. 1175, No. 497, 49 §§ 1303(c) and 1508.

Official Note: These sections provide for the loss of the lien when property is conveyed in good faith prior to the filing of a claim and for the priority of a lien.

(2) Municipal and Tax Claims.

(i) Section 24 of the Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7275.

Official Note: This Section relates to sequestration of rents.

(ii) Section 27 of the Act of May 16, 1923, P. L. 207, 53 P. S. § 7277.

Official Note: This Section relates to stay upon entry of security and admission of validity of claim.

(iii) Section 29 of the Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7279.

Official Note: This Section relates to upset sale price and discharge of liens.

(iv) Section 30 of the Act of May 16, 1923, P. L. 207, 53 P. S. § 7280.

Official Note: This Section relates to execution against quasi public corporations and preference of claims.

(v) Section 31 of the Act of May 16, 1923, P. L. 207, 53 P. S. § 7281.

Official Note: This Section relates to procedure for selling free and clear of all liens.

(vi) Sections 31.1, 31.2 of the Act of May 16, 1923, P. L. 207, as added and amended, 53 P. S. §§ 7282, 7283.

Official Note: These Sections relate to procedure for selling free and clear of all claims in first class counties and cities.

(vii) Section 32 of the Act of May 16, 1923, P. L. 207, 53 P. S. § 7293, as added and amended.

Official Note: This Section relates to right of redemption after sale.

(viii) The Real Estate Tax Sale Law approved July 7, 1947, P. L. 1368, as amended, 72 P. S. § 5860.101 and all other acts authorizing Tax Bureau or Treasurer's sale on tax liens.

(ix) Sections 4 to 9, inclusive, of the Act of March 1, 1956, P. L. (1955) 1196, 53 P. S. §§ 7287 to 7292, except insofar as § 7 relates to execution, acknowledgement and delivery of sheriff's deed.

Official Note: These Sections relate to sale of vacant lots in "conservation areas" free and clear of all liens and without any right of redemption.

(b) The following Acts of Assembly are suspended in accordance with the provisions of the Constitution of 1968, Article V, Section 10(c):

(1) Section 28 of the Act approved May 16, 1923, P. L. 207, 53 P. S. § 7278.

Official Note: This Section provides for execution upon a judgment by writ of levavi facias and specifies the form of the writ and procedure thereon.

(2) Section 1404 of the Fiscal Code of April 9, 1929, P. L. 343, Art. XIV, 72 P. S. § 1404, only insofar as it may authorize sale of real estate subject to tax liens on writ of scire facias.

Official Note: This Section authorizes writs of scire facias to issue and be prosecuted to judgment and execution on Commonwealth tax liens.

(3) Section 7 of the Act approved March 1, 1956, P. L. (1955) 1196, 53 P. S. § 7290, insofar as it relates to acknowledgment and delivery of sheriff's deed.

Official Note: This Section relates to the execution, acknowledgment and delivery of deeds in sale of tax delinquent vacant lots located in blighted "conservation areas."

Source

The provisions of this Rule 3191 adopted March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441.

SHERIFF'S INTERPLEADER**Rule 3201. Scope.**

These rules govern the procedure in sheriff's interpleader when tangible personal property levied upon pursuant to a writ of execution is claimed to be the property of a person other than the defendant in the execution.

Official Note: See Execution Rule 3122 limiting venue of interpleader to the county where the levy is made.

These rules do not apply where tangible property is attached under Rule 3108(a) rather than levied upon. If the garnishee claims the property the garnishee may interplead under Rules 2301 et seq. If an outside person claims the property, such person may intervene in the garnishment proceedings or the garnishee may defend the attachment by asserting the outside person's title and denying that the garnishee holds any property of the defendant.

Source

The provisions of this Rule 3201 adopted August 30, 1965, effective March 1, 1966; amended April 8, 1997, effective July 1, 1997, 27 Pa.B. 2045; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243938).

Rule 3202. Property claim.

(a) A claim to tangible personal property levied upon pursuant to a writ of execution shall be in writing and substantially in the form provided by Rule 3258 and shall be filed with the sheriff prior to any execution sale of the property claimed.

(b) The claim shall be signed by the claimant or some one on the claimant's behalf, and shall set forth

- (1) a list of the property claimed sufficient to identify it;
- (2) an estimate of the value of the property;
- (3) a statement of the source of the claimant's ownership of the property.

Source

The provisions of this Rule 3202 adopted August 30, 1965, effective March 1, 1966; amended April 8, 1997, effective July 1, 1997, 27 Pa.B. 2045. Immediately preceding text appears at serial page (213435).

Rule 3203. Notice of claim; request for appraisal; stay of sale.

When a claim is filed, the sheriff shall stay the execution against the claimed property and forthwith send a copy of the claim by ordinary mail to the plaintiff, the defendant, and all other execution creditors and claimants of the property, together with a notice substantially in the form provided by Rule 3259, that unless a party in interest requests an appraisal the sheriff, without making an

appraisal will accept the value of the property set forth in the claim. The filing of the claim shall not stay execution as to property not included in the claim.

Official Note: Adopted August 30, 1965, effective March 1, 1966.

When several writs of execution are outstanding against the same defendant, see Rule 3115(a).

Rule 3204. Sheriff's determination of claimant's title.

Within ten days after the claim is filed the sheriff shall, with or without formal hearing, determine whether the claimant is prima facie the owner of the property in whole or in part.

Source

The provisions of this Rule 3204 adopted August 30, 1965, effective March 1, 1966; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243939).

Rule 3205. Appraisal of property; appraisal fees.

(a) Unless a party in interest files a request for appraisal with the sheriff within ten days after the date specified in the sheriff's notice, the sheriff without making an appraisal shall accept the value of the property set forth in the claim.

(b) A party requesting an appraisal shall advance the sheriff's appraisal fee. The sheriff shall then appraise the property and immediately give notice of the amount of the appraisal by ordinary mail to all parties to whom the sheriff's notice was mailed. The sheriff or any party in interest may apply to the court for an order fixing a special appraisal fee where the appraisal of a large quantity of property or the services of experts shall be required.

Official Note: The Sheriff's Fee Act remains unaffected by these rules. See Act of July 6, 1984, P. L. 614, No. 127, 42 P. S. § 21101 et seq.

Source

The provisions of this Rule 3205 adopted August 30, 1965, effective March 1, 1966; amended April 8, 1997, effective July 1, 1997, 27 Pa.B. 2045; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial page (243939).

Rule 3206. Sheriff's determination in favor of claimant; objections; amount of bond; delivery of property; interpleader.

(a) If the sheriff determines that the claimant is prima facie the owner of the property in whole or in part, the sheriff shall file in the prothonotary's office the claim, the determination of ownership including the valuation of the property, and shall send by ordinary mail copies of the determination and valuation to the claimant, the plaintiff, the defendant, and all other execution creditors and claimants of the property.

(b) Any execution creditor or defendant may, within ten days after the date of mailing of the copy of the determination and valuation, file with the prothonotary, and with the sheriff an objection to the determination substantially in the form provided by Rule 3260. The sheriff shall send by ordinary mail a copy of the objection to all other parties. Upon the filing of the objection an interpleader shall be at issue in which the claimant shall be the plaintiff and all other parties in interest shall be defendants. The only pleading shall be the claim, all averments of which shall be deemed to be denied.

(c) If no objection is filed the levy on the claimed property shall be deemed abandoned.

(d) Upon abandonment of the levy, the sheriff shall return the claimed property to the person from whom it was taken. If the claimed property was found in the possession of a person other than the claimant, the sheriff shall, before returning it, give forty-eight hours notice to the claimant of the abandonment of the levy and the intention to return the property to a person other than the claimant.

(e) If an execution creditor or a defendant files an objection, the claimed property shall remain subject to the levy unless the claimant within ten days from the filing of the objection files a bond as provided in Rules 3207(d) and 3208, in which event the sheriff shall withdraw all levies on the claimed property and deliver the same as provided in Rule 3207(d).

Source

The provisions of this Rule 3206 adopted August 30, 1965, effective March 1, 1966; amended April 8, 1997, effective July 1, 1997, 27 Pa.B. 2045; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial pages (243939) to (243940).

Rule 3207. Sheriff's determination against claimant; objection; amount of bond; delivery of property; interpleader.

(a) If the sheriff determines that the claimant is prima facie not the owner of the property in whole or in part, the sheriff shall file in the prothonotary's office the claim, the determination of ownership including the valuation of the property, and shall send by ordinary mail copies of the determination and valuation to the claimant, the plaintiff, the defendant, and all other execution creditors and claimants of the property.

(b) The claimant may, within ten days after the date of the mailing of the copy of the determination and valuation, file with the prothonotary and with the sheriff an objection to the determination substantially in the form provided by Rule 3260, with or without bond. The sheriff shall send by ordinary mail a copy of the objection to all other parties. Upon the filing of the objection an interpleader shall be at issue in which the claimant shall be the plaintiff and all other parties in interest shall be defendants. The only pleading shall be the claim, all averments of which shall be deemed to be denied.

(c) If no objection is filed the claim shall be deemed abandoned and the sheriff shall proceed with the execution against the property without further order of court.

Official Note: Rule 3121 provides that the filing of a property claim stays an execution and that after the termination of the stay sale may be had without reissuance of the writ.

(d) If the claimant files an objection with bond in a sum double the valuation of the property as determined by the sheriff or double the amount due under all writs of execution against the defendant on which the sheriff has levied, whichever is smaller, the sheriff unless otherwise ordered by the court shall withdraw all levies on the claimed property. Upon payment by the claimant of the sheriff's costs, if any, for keeping and transporting the property, the sheriff shall deliver it to the person from whom it was taken, provided that, if the property was taken from a person other than the claimant and the claimant desires possession thereof, the sheriff shall deliver it to the claimant if the claimant elects to file a bond in double the valuation of the property.

Official Note: As to possession in the case of two or more claimants, see Rule 3210.

(e) If the claimant files an objection without bond the property shall remain subject to the levy and shall be sold in execution, unless otherwise ordered by the court. The proceeds shall be retained by the sheriff or paid into court until the determination of the interpleader.

(f) In appropriate cases the court may order the property impounded.

Source

The provisions of this Rule 3209 adopted August 30, 1965, effective March 1, 1966; amended April 8, 1997, effective July 1, 1997, 27 Pa.B. 2045; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial pages (243940) to (243941).

Rule 3208. Bond; more than one execution.

(a) The bond shall name the Commonwealth of Pennsylvania as obligee, with security approved by the prothonotary, and shall be conditioned that claimant shall maintain the claim to the property or pay its value to the persons entitled thereto with costs.

(b) The claimant may file a bond without security and without order of court as to household goods and furnishings levied on by the sheriff in the household of the claimant. The court may, upon petition of the claimant and after notice and hearing, permit the filing of the claimant's own bond without security as to any other property levied on by the sheriff.

(c) A claimant who files a bond in double the valuation of the property shall not be required during the pendency of the interpleader proceedings to file another bond in any subsequent execution against the same property but the subsequent execution creditor shall be made a party to the pending interpleader proceedings.

Source

The provisions of this Rule 3208 adopted August 30, 1965, effective March 1, 1966; amended April 8, 1997, effective July 1, 1997, 27 Pa.B. 2045. Immediately preceding text appears at serial pages (213437) to (213438).

Rule 3209. Objections to bond.

The court, upon petition filed by any party, and after notice and hearing, may

- (1) review the action of the prothonotary in approving or rejecting the security offered;
- (2) increase or decrease the amount of any bond or require additional security for cause shown;
- (3) strike off a bond improperly filed; or
- (4) permit the substitution of a bond and enter an exoneration of a prior bond.

Official Note: Adopted August 30, 1965, effective March 1, 1966.

Rule 3210. Two or more claimants; issue; possession.

If two or more claimants of the same property become parties to an interpleader, the court on motion of any party shall enter an order framing the issues to be tried and directing the disposition of the property pending the determination of the interpleader.

Official Note: Adopted August 30, 1965, effective March 1, 1966.

Rule 3211. Perishable property.

When perishable property has been claimed, the court, upon petition of the sheriff or any party in interest, may make such order relating to its preservation, sale or distribution as it shall deem proper.

Official Note: Adopted August 30, 1965, effective March 1, 1966.

Rule 3212. Evidence as to value.

The valuation of the property set forth in the sheriff's determination of ownership shall be prima facie evidence of its value but the parties at a hearing under Rule 3209 or at a trial of the interpleader may show that its value is more or less.

Official Note: Adopted August 30, 1965, effective March 1, 1966.

Rule 3213. Judgment.

The judgment in the interpleader proceedings shall

- (1) determine the title to the claimed property as among the parties to the interpleader,
- (2) provide for the disposition of the proceeds of sale thereof,
- (3) fix the amount of

- (i) special damages sustained by the claimant if the claimant has sustained the claim or
- (ii) any liability of the claimant to whom property has been delivered as to which the claimant has not sustained the claim and
- (4) include such counsel fees as may be awarded by the court as part of the costs.

Source

The provisions of this Rule 3213 adopted August 30, 1965, effective March 1, 1966; amended April 8, 1997, effective July 1, 1997, 27 Pa.B. 2045. Immediately preceding text appears at serial page (213439).

Rule 3214. Execution.

Any liability of the claimant included in the judgment may be enforced by execution on the judgment or by proceedings on the bond.

Official Note: Adopted August 30, 1965, effective March 1, 1966.

Rule 3215. Effective date; pending actions. [Rescinded].

Source

The provisions of this Rule 3215 adopted August 30, 1965, effective March 1, 1966; rescinded April 1, 1997, effective July 1, 1997, 27 Pa.B. 2045. Immediately preceding text appears at serial page (213439).

Rule 3216. Trial without jury.

The trial of an interpleader by a judge sitting without a jury shall be in accordance with Rule 1038.

Source

The provisions of this Rule 3216 adopted June 27, 1969, effective September 1, 1969; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (15979).

ACTS OF ASSEMBLY NOT SUSPENDED

Rule 3231. Acts of Assembly not suspended. [Rescinded].

Official Note: See Rule 3159 for the preservation of the Acts of Assembly formerly preserved by this rule.

Source

The provisions of this Rule 3231 amended April 6, 1997, effective July 1, 1997, 27 Pa.B. 2045; reserved April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026. Immediately preceding text appears at serial pages (229675) to (229680).

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(243943) No. 284 Jul. 98

Rule 3232. Action of mortgage foreclosure. [Rescinded].

Official Note: Former Rule 3232 preserved Acts of Assembly which were subsequently repealed.

Source

The provisions of this Rule 3232 adopted March 30, 1960, effective November 1, 1960; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; rescinded March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial pages (213444) to (213445).

Rule 3233. Action upon mechanics' liens, municipal claims, tax claims, and charges on land. [Rescinded].

Official Note: Former Rule 3233(a)(1) preserved statutory provisions which were subsequently repealed. See Rule 3191(a)(1)(i) for preservation of the Act of 1963 governing the enforcement of a judgment in rem in an action or proceeding upon a mechanics' lien.

All of the Acts of Assembly preserved by former Rule 3233(b) continue to be preserved under Rule 3191(a)(2).

Source

The provisions of this Rule 3233 adopted July 21, 1961, effective October 1, 1961; rescinded March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial pages (213445) to (213446).

Rule 3234. Sheriff's interpleader proceedings. [Rescinded].

Official Note: The statutes formerly preserved by this rule have been repealed.

Source

The provisions of this Rule 3234 amended August 30, 1965, effective March 1, 1966; rescinded April 6, 1997, effective July 1, 1997, 27 Pa.B. 2045. Immediately preceding text appears at serial page (213447).

ACTS OF ASSEMBLY SUSPENDED**Rule 3241. Acts of Assembly suspended. [Rescinded].**

Official Note: The statutes formerly suspended by this rule have been repealed.

Source

The provisions of this Rule 3241 adopted March 30, 1960, effective November 1, 1960; amended April 6, 1997, effective July 1, 1997, 27 Pa.B. 2045; rescinded April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026. Immediately preceding text appears at serial pages (229681) to (229691).

Rule 3242. Action of ejectment. [Rescinded].

Official Note: Former Rule 3242 suspended statutory provisions which were subsequently repealed.

Source

The provisions of this Rule 3242 adopted March 30, 1960, effective November 1, 1960; rescinded March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial page (213458).

Rule 3243. Action of replevin. [Rescinded].

Official Note: Former Rule 3243 suspended statutory provisions which were subsequently repealed.

Source

The provisions of this Rule 3243 adopted March 30, 1960, effective November 1, 1960; rescinded March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial pages (213458) to (213459).

Rule 3244. Action of mortgage foreclosure. [Rescinded].

Official Note: Former Rule 3244 suspended statutory provisions which were subsequently repealed.

Source

The provisions of this Rule 3244 adopted March 30, 1960, effective November 1, 1960; rescinded March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial page (213459).

Rule 3245. Action upon mechanic's liens, municipal claims, tax claims, and charges on land. [Rescinded].

Official Note: See Rule 3191(b) for the suspension of statutory provisions governing writs of scire facias and levari facias.

Source

The provisions of this Rule 3245 adopted July 21, 1961, effective October 1, 1961; rescinded March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial pages (213459) to (213460).

Rule 3246. Sheriff's interpleader proceedings. [Rescinded].

Official Note: The statutes formerly suspended by this rule have been repealed.

Source

The provisions of this Rule 3246 adopted August 30, 1965, effective March 1, 1966; amended November 19, 1974, 4 Pa.B. 2449; rescinded April 6, 1997, effective July 1, 1997, 27 Pa.B. 2045. Immediately preceding text appears at serial pages (213460) to (213461).

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(302583) No. 352 Mar. 04

RULES SUPERSEDED**Rule 3249. Attachment rules superseded. [Rescinded].**

Official Note: Rule 3249 governing attachment rules superseded has been rescinded as obsolete.

Source

The provisions of this Rule 3249 adopted March 30, 1960, effective November 1, 1960; rescinded March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial page (213461).

ABOLITION OF CIVIL ARREST AFTER JUDGMENT**Rule 3250. Abolition of civil arrest after judgment. [Rescinded].**

Official Note: Rule 3250 governing civil arrest after judgment has been rescinded as its substance has been incorporated into Section 5108(b) of the Judicial Code, 42 Pa.C.S. § 5108(b).

Source

The provisions of this Rule 3250 adopted March 30, 1960, effective November 1, 1960; rescinded March 5, 1997, effective July 1, 1997, 27 Pa.B. 1441. Immediately preceding text appears at serial pages (213461) to (213462).

FORMS**Rule 3251. Praecipe for Writ of Execution. Money Judgments.**

Except as provided by Rule 2963 governing execution upon a judgment entered by confession, the praecipe for a writ of execution shall be substantially in the following form:

[Caption]

PRAECIPE FOR WRIT OF EXECUTION

To the Prothonotary:

Issue writ of execution in the above matter,

- (1) directed to the sheriff of _____ county;
- (2) against _____, defendant; and
(Name of Defendant)
- (3) against _____, garnishee;
(Name of Garnishee)
- (4) and enter this writ in judgment index
 - (a) against _____, defendant, and
(Name of Defendant)
 - (b) against _____, as garnishee, as a lis pendens
(Name of Garnishee)

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against real property of the defendant in name of garnishee as follows:

(Specifically describe property)

(If space insufficient attach extra sheets)

(5) Amount due	\$ _____
Interest from ____	\$ _____
[Costs to be added]	\$ _____

Attorney for Plaintiff

Official Note: Under paragraph (1) when the writ is directed to the sheriff of another county as authorized by Rule 3103(b), the county should be indicated. Under Rule 3103(c) a writ issued on a transferred judgment may be directed only to the sheriff of the county in which issued.

Paragraph (3) above should be completed only if a named garnishee is to be included in the writ.

Paragraph (4)(a) should be completed only if entry of the execution in the county of issuance is desired as authorized by Rule 3104(a)(1). When the writ issues to another county entry is required as of course in that county by the prothonotary. See Rule 3104(b).

Paragraph (4)(b) should be completed only if real property in the name of a garnishee is attached and entry as a lis pendens is desired. See Rule 3104(c).

Certification as to waiver of exemption may be included in the praecipe. Specific directions to the sheriff as to property to be levied upon may be included in the praecipe or by separate direction at the option of plaintiff.

Source

The provisions of this Rule 3251 amended April 1, 1996, effective July 1, 1996, 26 Pa.B. 1806; amended April 20, 1998, effective July 1, 1998, 28 Pa.B. 2026; amended December 19, 2003, effective July 1, 2004, 34 Pa.B. 22. Immediately preceding text appears at serial pages (243946) to (297587).

Rule 3252. Writ of execution; money judgments.

(a) The writ of execution shall include a notice to the defendant, a summary of major exemptions, and a claim for exemption, and shall be substantially in the following form:

(Caption)

WRIT OF EXECUTION

NOTICE

This paper is a Writ of Execution. It has been issued because there is a judgment against you. It may cause your property to be held or taken to pay the judgment. You may have legal rights to prevent your property from being taken. A

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lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

The law provides that certain property cannot be taken. Such property is said to be exempt. There is a debtor's exemption of \$300. There are other exemptions which may be applicable to you. Attached is a summary of some of the major exemptions. You may have other exemptions or other rights.

If you have an exemption, you should do the following promptly:

- (1) Fill out the attached claim form and demand for a prompt hearing.
- (2) Deliver the form or mail it to the Sheriff's Office at the address noted.

You should come to court ready to explain your exemption. If you do not come to court and prove your exemption, you may lose some of your property.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

WRIT OF EXECUTION

Commonwealth of Pennsylvania)

County of _____)

To the Sheriff of _____ County:

To satisfy the judgment, interest and costs against _____,
(Name of Defendant)

defendant

(1) you are directed to levy upon the property of the defendant and to sell the defendant's interest therein;

(2) you are also directed to attach the property of the defendant not levied upon in the possession of _____,
(Name of Garnishee)

as garnishee, _____, and to notify the garnishee that
(Specifically describe property)

- (a) an attachment has been issued;
- (b) except as provided in paragraph (c), the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof;
- (c) the attachment shall not include
 - (i) the first \$10,000 of each account of the defendant with a bank or other financial institution containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law.
 - (ii) each account of the defendant with a bank or other financial institution in which funds on deposit exceed \$10,000 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law.
 - (iii) any funds in an account of the defendant with a bank or other financial institution that total \$300 or less. If multiple accounts are attached, a total of \$300 in all accounts shall not be subject to levy and attachment as determined by the executing officer. The funds shall be set aside pursuant to the defendant's general exemption provided in 42 Pa.C.S. § 8123.

(3) if property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify such other person that he or she has been added as a garnishee and is enjoined as above stated.

Amount due	\$ _____
Interest from ____	\$ _____
Costs to be added	\$ _____

(Name of Prothonotary (Clerk))

Seal of the Court

By _____
(Deputy)

**MAJOR EXEMPTIONS UNDER PENNSYLVANIA
AND FEDERAL LAW**

1. \$300 statutory exemption.
2. Bibles, school books, sewing machines, uniforms and equipment.
3. Most wages and unemployment compensation.
4. Social Security benefits.
5. Certain retirement funds and accounts.
6. Certain veteran and armed forces benefits.
7. Certain insurance proceeds.
8. Such other exemptions as may be provided by law.

(Caption)

CLAIM FOR EXEMPTION

To the Sheriff:

I, the above-named defendant, claim exemption of property from levy or attachment:

(1) From my personal property in my possession which has been levied upon,

(a) I desire that my \$300 statutory exemption be

(i) set aside in kind (specify property to be set aside in kind):

_____;

(ii) paid in cash following the sale of the property levied upon; or

(b) I claim the following exemption (specify property and basis of exemption):

_____.

(2) From my property which is in the possession of a third party, I claim the following exemptions:

(a) my \$300 statutory exemption: in cash; in kind (specify property):

_____;

(b) other (specify amount and basis of exemption):

_____.

I request a prompt court hearing to determine the exemption. Notice of the hearing should be given to me at

_____ ,

_____ ,

(Address)

_____ .

(Telephone Number)

I verify that the statements made in this Claim for Exemption are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

(Defendant)

THIS CLAIM TO BE FILED WITH THE OFFICE
OF THE SHERIFF OF COUNTY:

(Address)

(Telephone Number)

Official Note: Under paragraphs (1) and (2) of the writ, a description of specific property to be levied upon or attached may be set forth in the writ or included in a separate direction to the sheriff.

Under paragraph (2) of the writ, if attachment of a named garnishee is desired, the garnishee's name should be set forth in the space provided.

Under paragraph (3) of the writ, the sheriff may add as a garnishee any person not named in this writ who may be found in possession of property of the defendant. See Rule 3111(a). For limitations on the power to attach tangible personal property, see Rule 3108(a).

(b) Each court shall by local rule designate the officer, organization or person to be named in the notice.

Source

The provisions of this Rule 3252 amended March 16, 1981, effective March 27, 1981, 11 Pa.B. 1075; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281; amended June 10, 2003, effective September 1, 2003, 33 Pa.B. 2974; amended February 23, 2007, effective April 1, 2007, 37 Pa.B. 939; amended April 16, 2010, effective May 17, 2010, 40 Pa.B. 2243. Immediately preceding text appears at serial pages (326457) to (326461).

Rule 3253. Interrogatories in attachment.

Interrogatories of the plaintiff to the garnishee shall be substantially in the following form:

(Caption)

Interrogatories to Garnishee

To _____ :
(Garnishee)

You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in judgment against you:

1. At the time you were served or at any subsequent time did you owe the defendant any money or were you liable to the defendant on any negotiable or other written instrument, or did the defendant claim that you owed the defendant any money or were liable to the defendant for any reason?
2. At the time you were served or at any subsequent time was there in your possession, custody or control or in the joint possession, custody or con-

trol of yourself and one or more other persons any property of any nature owned solely or in part by the defendant?

3. At the time you were served or at any subsequent time did you hold legal title to any property of any nature owned solely or in part by the defendant or in which the defendant held or claimed any interest?

4. At the time you were served or at any subsequent time did you hold as fiduciary any property in which the defendant had an interest?

5. At any time before or after you were served did the defendant transfer or deliver any property to you or to any person or place pursuant to your direction or consent and if so what was the consideration therefore?

6. At any time after you were served did you pay, transfer or deliver any money or property to the defendant or to any person or place pursuant to the defendant's direction or otherwise discharge any claim of the defendant against you?

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or Federal law? If so, identify each account and state the amount of funds in each account, and the entity electronically depositing those funds on a recurring basis.

8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account.

(The plaintiff may set forth additional appropriate interrogatories.)

Explanatory Comment

Numerous federal and state statutes provide that funds paid to individuals pursuant to the statutes are exempt from execution, levy and attachment. Perhaps the premier statute in this regard is the Social Security Act which provides, 42 U.S.C. § 407:

§ 407. Assignment; amendment of section

(a) The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Section 407 provides that not only are future payments exempt from execution but so too are the funds once they have been deposited in the recipient's account in a bank or other financial institution.

Prior to the present amendments, the Pennsylvania Rules of Civil Procedure did not comply with these provisions. The writ of execution under Rule 3252, paragraph 2(b), provided that "the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof." The writ contained no exception for funds of

the defendant which are exempt from execution. In addition, the defendant was required to claim the exemption by filing a claim under Rule 3123.1.

The present amendments to the execution rules address this problem. Under the amended rules, the judgment creditor rather than the defendant has the burden of raising an issue with respect to exempt payments within the scope of new Rule 3111.1. The defendant need not file a claim for exemption as exempt funds are not attached.

The amendments are as follows:

1. New Rule 3111.1 is to be promulgated, explicitly stating that funds of the defendant on deposit in certain accounts with a bank or other financial institution are exempt from execution. Social security payments are not named. Rather, the rule speaks in terms of “funds on deposit in a bank or other financial institution in an account in which funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law.”

2. The form of the writ of execution set forth in Rule 3252 is amended by incorporating the language of new Rule 3111.1(1). New paragraph 2(c) of the writ advises the garnishee that the attachment does not include the defendant’s funds in an account which exempt funds are deposited electronically on a recurring basis.

3. Rule 3253 governing interrogatories to the garnishee is amended by adding new interrogatory no. 7. This interrogatory inquires of a bank or other financial institution as garnishee whether the defendant had “funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law.” The garnishee is then required to “identify each account and state the reason for the exemption, the amount being withheld under each exemption and the entity electronically depositing those funds on a recurring basis.”

4. The prior practice under Rule 3146(b) was that “the prothonotary, on praecipe of the plaintiff, shall enter judgment against the garnishee for the property of the defendant admitted in the answer to interrogatories to be in the garnishee’s possession.” Rule 3146(b) has been amended by adding new paragraph (2) providing that if the answer of a bank or other financial institution to interrogatory no. 7 identifies one or more accounts as containing exempt funds, “the prothonotary, in the absence of an order of court, shall not enter judgment pursuant to paragraph (1) of this subdivision as to funds of any account of the defendant that is identified in the garnishee’s answer” to the interrogatory.

5. Section 8123 of the Judicial Code, 42 Pa.C.S. § 8123, provides for a \$300 monetary exemption. This exemption is treated separately in new Rule 3111.1(2), in new paragraph (2)(c)(ii) of the writ of execution prescribed by Rule 3252 and in a new interrogatory to the garnishee under Rule 3253, interrogatory no. 8. The amendments provide a similar procedure for the \$300 monetary exemption as for recurring electronic deposits described above: \$300 or less in an account of the defendant is exempt from attachment, the writ of execution notifies the garnishee that \$300 or less in an account of the defendant is not attached and interrogatory no. 8 inquires of the garnishee concerning the funds of the defendant on deposit in accounts with the garnishee. As the \$300 amount is exempt from attachment, the defendant need not claim it under Rule 3123.1 governing claim of exemption.

Explanatory Comment—2010

New Rule 3111.1 was promulgated in 2007 to address the failure of the rules of civil procedure to protect funds held in accounts of banks and other financial institutions that are exempt from execution, levy, and attachment pursuant to federal and state legislation. The current rule protects from attachment all funds in an account in which any funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy, or attachment.

The amendment to subdivision (1) of Rule 3111.1 provides that only the first \$10,000 held in an account may not be attached whenever the account includes any funds that are identified as being exempt from execution, levy, or attachment. If an account holder believes the remainder is also exempt, he or she may petition the court for relief. Under new subdivision (2) any funds that exceed \$10,000 in an account may be attached unless all funds in the account are identified as exempt funds.

Source

The provisions of this Rule 3253 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281; amended February 7, 2007, effective April 1, 2007, 37 Pa.B. 939; amended April 16, 2010, effective May 17, 2010, 40 Pa.B. 2243. Immediately preceding text appears at serial pages (326461) to (326463).

Rule 3254. Praeceptum for writ of possession.

Except as provided by Rule 2974.1 governing execution upon a judgment in ejectment entered by confession, the praecipe for a writ of possession shall be substantially in the following form:

[Caption]

PRAECIPE FOR WRIT OF POSSESSION

“To the Prothonotary:

“Issue writ of possession in the above matter.

“ _____
Attorney for ”

Official Note: Adopted March 30, 1960, effective November 1, 1960.

Source

The provisions of this Rule 3254 amended April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814. Immediately preceding text appears at serial page (136974).

Rule 3255. Writ of possession.

The writ of possession shall be substantially in the following form:

[Caption]

WRIT OF POSSESSION

“Commonwealth of Pennsylvania)

“County of _____)

“To the Sheriff of _____ County:

“(1) To satisfy the judgment for possession in the above matter you are directed to deliver possession of the following described property to _____:

(Specifically describe property)

Note

Description of property may be included in, or attached to, the writ.

“(2) To satisfy the costs against _____ you are directed to levy upon any property of _____ and sell his or her interest therein.

[Next page 3000-83.]

Seal of the Court _____
 Date _____

“ _____
 (Name of Prothonotary (Clerk))

“ _____
 (Deputy)”

Official Note: If the judgment includes profits or damages, or if attachment execution for costs is desired, the plaintiff may issue a separate writ of execution under Rule 3102.

Source

The provisions of this Rule 3255 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2281. Immediately preceding text appears at serial pages (229698) to (229699).

Rule 3256. Praecipe for writ; mortgage foreclosure.

The praecipe for a writ of execution in an action of mortgage foreclosure shall be substantially in the following form:

[Caption]
 PRAECIPE FOR WRIT OF EXECUTION
 (Mortgage Foreclosure)

To the Prothonotary:
 “Issue writ of execution in the above matter:
 Amount due \$ _____
 Interest from \$ _____
 [Costs to be added] \$ _____

“ _____
 Attorney for Plaintiff”

Official Note: Adopted March 30, 1960, effective November 1, 1960.
Local practice may require that a description of the property be included in the praecipe.

Rule 3257. Writ of Execution; Mortgage Foreclosure.

The writ of execution in an action of mortgage foreclosure shall be substantially in the following form:

[Caption]
 WRIT OF EXECUTION

“Commonwealth of Pennsylvania)
 “County of _____)
 “To the Sheriff of _____ County:
 “To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property:
 (1) _____
 (Specifically describe real property)
 (2) _____

 (Specifically describe personal property when judgment results from a mortgage covering both personal and real property pursuant to Section 9604(a) of the Uniform Commercial Code)

Note

Description of property may be included in, or attached to, the writ.

Amount due	\$ _____
Interest from	\$ _____
[Costs to be added]	\$ _____

“(Name of Prothonotary (Clerk))”

Seal of the Court

Date _____

“(Deputy)”

Source

The provisions of this Rule 3257 adopted March 30, 1960, effective November 1, 1960; amended March 13, 2007, effective June 1, 2007, 37 Pa.B. 1411. Immediately preceding text appears at serial pages (255389) to (255390).

Rule 3258. Property claim.

[Caption]

To the Sheriff:

1. The property listed below and levied upon in this case is not the property of the defendant but is the property of the undersigned. A list of the claimed property and the values thereof are:

List of Property	Value
_____	_____
_____	_____
_____	_____

2. The claimant obtained title to the property as follows:

Official Note: Adopted August 30, 1965, effective March 1, 1966.

Rule 3259. Sheriff’s notice.

[Caption]

To the Defendant and all other parties in interest:

You are hereby notified that a property claim, a copy of which is attached hereto, has been filed by _____(Name) claiming property listed therein. Unless an appraisal of the property is requested within ten (10) days from the date of this notice, the sheriff without making an appraisal will accept the value of the property set forth in the claim.

JUDGMENTS

231 Rule 3260

Date: _____
(Sheriff of _____ County)
By _____
(Deputy)

Official Note: Adopted August 30, 1965, effective March 1, 1966.

Rule 3260. Objection to sheriff’s determination.

[Caption]

TO THE PROTHONOTARY:

Enter objection to the sheriff’s determination of ownership of the property:

Date: _____
(Objector, Attorney, or Agent)

Official Note: Adopted August 30, 1965, effective March 1, 1966.

DEFICIENCY JUDGMENTS

GENERAL PROVISIONS

Rule 3276. Scope.

The rules of this chapter govern proceedings pursuant to Section 8103 of the Judicial Code, 42 Pa.C.S. § 8103, relating to deficiency judgments.

Official Note: Section 8103(a) of the Judicial Code provides for a petition to fix the fair market value of real property sold in execution proceedings where the price for the property sold is not sufficient to satisfy the amount of the judgment, interest and costs and the judgment creditor seeks to collect the balance due.

Section 8103(d) provides for a petition to have the judgment marked satisfied, released and discharged when the judgment creditor has not initiated a timely proceeding under Section 8103(a).

Rules 3276—3280 are general provisions applicable to both types of petitions. Rules 3281—3286 are special rules applicable to petitions under Section 8103(a) while Rules 3287—3291 apply to petitions under Section 8103(d).

Source

The provisions of this Rule 3276 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068.

Rule 3277. Definitions.

As used in this chapter,

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(1) “prior lien amounts” means the amounts of any prior liens, costs, taxes and municipal claims not discharged by the sale, and the amounts of any such items paid at distribution on the sale;

(2) “special allocations” means the special allocations required by Section 8103(f) of the Judicial Code;

Official Note: Section 8103(f) of the Judicial Code provides for certain special allocations when judgment has been entered with respect to a partial recourse obligation or an obligation of which only a portion is guaranteed.

(3) the following words shall have the meanings set forth in Section 8103(g) of the Judicial Code: “judgment,” “judgment creditor,” and “nonconsumer judgment creditor.”

Official Note: Section 8103(g) of the Judicial Code contains several definitions relating to deficiency judgments. The words set forth in paragraph (3) are common to both the rules and the Code.

“Judgment” is defined by Section 8103(g) as “[t]he judgment which was enforced by the execution proceedings referred to in subsection (a), whether that judgment is a judgment in personam such as a judgment requiring the payment of money or a judgment de terris or in rem such as a judgment entered in an action of mortgage foreclosure or a judgment entered in an action or proceeding upon a mechanic’s lien, a municipal claim, a tax lien or a charge on land.”

“Judgment creditor” is defined by Section 8103(g) as “[t]he holder of the judgment which was enforced by the execution proceedings.”

“Nonconsumer judgment creditor” is defined by Section 8103(g) as “[a]ny judgment creditor except a judgment creditor whose judgment was entered with respect to a consumer credit transaction.”

Source

The provisions of this Rule 3277 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068; amended August 7, 2001, effective September 4, 2001, 31 Pa.B. 4639. Immediately preceding text appears at serial pages (229701) to (229702).

Rule 3278. Venue. Supplementary Proceeding.

The proceeding shall be brought in the county in which the real property which is sold is located as a supplemental proceeding in the execution proceeding in that county.

Source

The provisions of this Rule 3278 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068.

Rule 3279. Commencement. Petition.

(a) The proceeding shall be commenced by filing a petition which shall begin with the notice to defend and set forth the averments required by Rule 3282 or Rule 3288.

(b) The petition shall contain a caption setting forth

(1) the docket number of the execution proceedings in which the real property was sold, and

(2) the names of all petitioners and respondents.

Official Note: See Rules 3281 and 3287 governing parties to the proceeding.

(c) The petition shall be verified and divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

Source

The provisions of this Rule 3279 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068.

Rule 3280. Answer.

(a) Except as provided by subdivision (b), an answer to a petition which contains a notice to defend shall be filed within twenty days after service of the petition.

(b) A respondent served outside the United States shall have sixty days from service of the petition within which to file an answer.

(c) The answer to a petition shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the petition.

Source

The provisions of this Rule 3280 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068.

**PROCEEDINGS UNDER SECTION 8103(A) TO FIX FAIR MARKET
VALUE OF REAL PROPERTY SOLD****Rule 3281. Parties.**

(a) The petition shall name the judgment creditor as petitioner.

(b) The petition may name as respondent any debtor, obligor, guarantor, mortgagor, and any other person directly or indirectly liable to the judgment creditor for the payment of the debt, and any owner of the property affected thereby.

Official Note: Section 8103(b) of the Judicial Code, 42 Pa.C.S. § 8103(b), governing deficiency judgments provides that “[a]ny debtor and any owner of the property affected thereby, who is neither named in the petition nor served with a copy thereof or notice of the filing thereof

as prescribed by general rule, shall be deemed to be discharged from all personal liability to the judgment creditor on the debt, interest, and costs. . . .”

Source

The provisions of this Rule 3281 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068; amended December 2, 2009, effective January 4, 2010, 40 Pa.B. 19. Immediately preceding text appears at serial page (297593).

Rule 3282. Petition. Averments. Notice to Defend.

- (a) The petition shall set forth:
- (1) the name and address of the judgment creditor,
 - (2) the name and last known address of each respondent,
 - (3) a statement that the petition is filed pursuant to Section 8103(a) of the Judicial Code,
 - (4) the court and number of the execution proceedings, the original judgment and any judgment obtained by transfer,
 - (5) the date the property was struck down to the successful bidder and the date the sheriff’s deed was delivered,
 - (6) a description of the real property and its location,
 - (7) the fair market value of the real property,
 - (8) a description of all prior lien amounts if the petitioner desires credit for such amounts,

Official Note: For the definition of prior lien amounts, see Rule 3277.

- (9) if the petition requests a special allocation, a statement that the judgment creditor is a nonconsumer judgment creditor;
 - (10) any special allocation required by Section 8103(f) of the Judicial Code, and
 - (11) a request that the court fix the fair market value of the real property at the value set forth in the petition and that the court determine any prior lien amounts and any special allocation as set forth in the petition.
- (b) The petition shall begin with a notice to defend substantially in the following form:

(CAPTION)

NOTICE TO DEFEND

To the Respondent(s):

You have been sued in court. The petition set forth in the following pages requests the court to determine the amount which should be credited against any liability you may have to the petitioner as a result of the purchase by the petitioner at an execution sale of the real property described in the petition. If you wish to defend against the petition, you must take action within twenty (20) days after this petition and notice are served upon you, by entering a written appearance personally or by attorney and filing in writing with the court your defenses

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or objections to the matters set forth in the petition. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any claim or relief requested by the petitioner. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

Official Note: The office shall be designated by the court under Rule 1018.1(c).

Source

The provisions of this Rule 3282 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068; amended August 7, 2001, effective September 4, 2001, 31 Pa.B. 4639; amended June 10, 2003, effective September 1, 2003, 33 Pa.B. 2974. Immediately preceding text appears at serial pages (282144) to (282145).

Rule 3283. Service.

(a)(1) If there is an attorney of record, service shall be made upon the respondent's attorney of record pursuant to Rule 440(a)(1)(i) or (ii).

(2) If there is no attorney of record, service shall be made

(i) by the sheriff or a competent adult in the manner prescribed by Rule 402(a) for service of original process, or

Official Note: See Rule 76 for the definition of "competent adult."

(ii) by the petitioner mailing a copy in the manner prescribed by Rule 403, or

(iii) if service cannot be made as provided in subparagraphs (i) or (ii), pursuant to special order of court as prescribed by Rule 430.

(b) The person serving the petition shall file a return of service as provided by Rule 405.

Source

The provisions of this Rule 3283 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended June 14, 1999, effective September 1, 1999, 29 Pa.B. 3191; amended December 2, 2009, effective January 4, 2010, 40 Pa.B. 19. Immediately preceding text appears at serial page (297595). (*Editor's Note:* The Supreme Court of Pennsylvania has suspended its order of June 14, 1999, published at 29 Pa.B. 3191 (June 26, 1999). See 29 Pa.B. 4859 (September 18, 1999).)

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(347567) No. 424 Mar. 10

Rule 3284. Order Upon Default or Admission.

The prothonotary, on praecipe of the petitioner, shall, without further notice or hearing, enter an order determining the fair market value of the real property to be the value alleged in the petition, determining the prior lien amounts to be in the amounts alleged in the petition and making any special allocation requested by the petition if

- (1) no answer is filed within the required time to a petition which was served pursuant to the requirements of Rule 3283 and contains a notice to defend required by Rule 3282(b), and notice has been given as provided by Rule 237.1 et seq., or
- (2) an answer is filed which does not deny the allegations in the petition as to the fair market value, the prior lien amounts or any special allocation.

Source

The provisions of this Rule 3284 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068; amended August 7, 2001, effective September 4, 2001, 31 Pa.B. 4639; amended December 2, 2009, effective January 4, 2010, 40 Pa.B. 19. Immediately preceding text appears at serial pages (346775) to (346776).

Rule 3285. Trial.

If an answer is filed which denies the allegations in the petition as to the fair market value, the prior lien amounts or the entitlement of the petitioner to any special allocation, the trial shall be limited to such of those issues as are raised by the answer, which shall be heard by a judge sitting without a jury in accordance with Rule 1038.

Official Note: Rules 206.4 through 206.7 governing petitions and answers do not apply to a petition subject to these rules.

Source

The provisions of this Rule 3285 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068; amended August 7, 2001, effective September 4, 2001, 31 Pa.B. 4639. Immediately preceding text appears at serial page (260401).

Rule 3286. [Reserved].**Source**

The provisions of this Rule 3286 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068; rescinded August 7, 2001, effective September 4, 2001, 31 Pa.B. 4639. Immediately preceding text appears at serial page (260402).

**PROCEEDINGS UNDER SECTION 8103(d) TO MARK JUDGMENT
SATISFIED, RELEASED AND DISCHARGED**

Rule 3287. Parties.

The petition shall name the judgment creditor as a respondent.

Source

The provisions of this Rule 3287 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068.

Rule 3288. Petition. Averments. Notice to Defend.

- (a) The petition shall set forth:
 - (1) the name and address of the petitioner,
 - (2) the name and last known address of each respondent,
 - (3) a statement that the petition is filed pursuant to Section 8103(d) of the Judicial Code,
 - (4) the court and number of the execution proceedings, the original judgment and any judgment obtained by transfer,
 - (5) a statement that the real property was sold, directly or indirectly, to the judgment creditor in the execution proceedings,
 - (6) the date that the property was sold by the sheriff and the date that the sheriff’s deed was executed and acknowledged,
 - (7) a statement that no petition under Section 8103(a) of the Judicial Code has been filed within six months after the sale, and
 - (8) a request that the court direct the prothonotary to mark the judgment satisfied, released and discharged.
- (b) The petition shall begin with a notice to defend substantially in the following form:

(CAPTION)

NOTICE TO DEFEND

To the Respondent(s):

You have been sued in court. The petition set forth in the following pages requests the court to direct the prothonotary to mark the judgment held by you against the petitioner satisfied, released and discharged as a result of your alleged failure to file a timely petition to fix the fair market value of real property purchased directly or indirectly by you at an execution sale. If you wish to defend against the petition, you must take action within twenty (20) days after this petition and notice are served upon you, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the matters set forth in the petition. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any claim or relief requested by the petitioner. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

3000-91

Official Note: The office shall be designated by the court under Rule 1018.1(c).

Source

The provisions of this Rule 3288 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068; amended June 10, 2003, effective September 1, 2003, 33 Pa.B. 2974. Immediately preceding text appears at serial pages (282146) and (282148).

Rule 3289. Service.

- (a) The petition shall be served in the manner provided by Rule 440.
- (b) Proof of service shall be as provided by Rule 405.

Source

The provisions of this Rule 3289 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068.

Rule 3290. Order Upon Default or Admission.

The court shall, without further notice or hearing, enter an order directing the prothonotary to mark the judgment satisfied, released and discharged if

- (1) no answer is filed within the required time to a petition which contains a notice to defend and notice has been given as provided by Rule 237.1 et seq., or
- (2) an answer is filed which does not deny the allegations in the petition that the judgment creditor has purchased, directly or indirectly, the real property sold in an execution sale on the judgment creditor's judgment and has failed to file a timely petition to fix the fair market value of the real property under Section 8103(a) of the Judicial Code.

Source

The provisions of this Rule 3290 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068.

Rule 3291. Trial.

If an answer is filed which denies the allegations in the petition, the trial shall be by a judge sitting without a jury in accordance with Rule 1038.

Official Note: Rules 206.4 through 206.7 governing petitions and answers do not apply to a petition subject to these rules.

Source

The provisions of this Rule 3291 adopted December 6, 1996, effective January 1, 1997, 26 Pa.B. 6068.

**Subchapter F. ATTACHMENT OF WAGES, SALARY
AND COMMISSIONS UNDER SECTION 8127(A)(3.1)
OF THE JUDICIAL CODE**

Rule	
3301.	Scope. Definitions.
3302.	Commencement. Notice.
3303.	Exemption from Attachment. Procedure.
3304.	Writ for the Attachment of Wages. Issuance. Service.

FORMS

3311.	Praecipe for Notice of Intent to Attach Wages. Form.
3312.	Notice of Intent to Attach Wages. Claim for Exemption from Wage Attachment. Notice of Claim for Exemption of Wages from Attachment. Forms.
3313.	Writ of Attachment of Wages. Form.

Rule 3301. Scope. Definitions.

(a) The rules of this chapter govern an attachment of wages to satisfy a judgment pursuant to Section 8127(a)(3.1) of the Judicial Code.

Official Note: Section 8127(a)(3.1) of the Judicial Code provides for the attachment of wages for amounts awarded to a judgment creditor-landlord arising out of a residential lease upon which the court has rendered judgment which is final.

See subdivision (b) for the definition of “judgment.”

Rule 3101 et seq. governing the enforcement of money judgments is not applicable to the attachment of wages under this chapter.

- (b) As used in this chapter,
- “defendant” means a judgment debtor-tenant,
- “garnishee” means the employer of the defendant,
- “judgment” means a judgment for amounts awarded to a plaintiff arising out of a residential lease, which has been entered in the court of common pleas or the Philadelphia Municipal Court and which shall have been entered originally in
- (1) any civil action brought in the court of common pleas,
 - (2) the following actions brought before a magisterial district judge:
 - (i) a civil action pursuant to Pa.R.C.P.M.D.J. 301 et seq., or
 - (ii) an action for the recovery of possession of real property pursuant to Pa.R.C.P.M.D.J. 501 et seq. in which the defendant appeared or filed papers or in which the complaint was served by handing a copy to the defendant,
 - (3) the following actions brought in the Philadelphia Municipal Court:
 - (i) a civil action in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(A) or (C), or
 - (ii) an action in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(B) and in which the defendant appeared or filed papers,
- “plaintiff” means a judgment creditor-landlord, and
- “wages” includes salary and commissions.

Source

The provisions of this Rule 3301 adopted December 21, 2005, effective one month after the date of the Order, 36 Pa.B. 176.

Rule 3302. Commencement. Notice.

(a) The plaintiff shall commence an execution to attach wages by filing a praecipe with the prothonotary of a county in which judgment has been entered and in which the defendant resides, the defendant works or the residential real property which is the subject of the action is located. The praecipe shall be filed within five years of the date of the original judgment. The praecipe shall be in the form prescribed by Rule 3311.

(b) Upon the filing of the praecipe, the prothonotary shall issue a Notice of Intent to Attach Wages in the form prescribed by Rule 3312(a). The prothonotary shall attach to the notice a copy of both (1) the praecipe filed with the prothonotary for issuance of the Notice of Intent to Attach Wages and (2) the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee.

Official Note: The web site of the Civil Procedural Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts at www.pacourts.org.

The poverty income guidelines set forth on the Committee web site which are to be attached to the Notice of Intent to Attach Wages are stated in monthly amounts.

(c) The Notice of Intent to Attach Wages shall be served upon the defendant in the manner provided by Rule 400 et seq. for service of original process in a civil action.

Official Note: The notice shall be served

(1) by the sheriff in the manner prescribed by Rule 402(a) for the service of original process upon a defendant, or

(2) pursuant to special order of court as prescribed by Rule 430 if service cannot be made as provided in paragraph (1) of this note.

Source

The provisions of this Rule 3302 adopted December 21, 2005, effective one month after the date of the Order, 36 Pa.B. 176; amended July 16, 2012, effective immediately, 42 Pa.B. 4907. Immediately preceding text appears at serial page (316418).

Rule 3303. Exemption from Attachment. Procedure.

(a) A defendant claiming an exemption from attachment based upon the federal poverty income guidelines shall file the claim for exemption with the prothonotary within thirty days of service of the Notice of Intent to Attach Wages.

Official Note: For the form of the claim for exemption, see Rule 3312(b).

(b)(1) If the defendant files a claim for exemption of wages from attachment either within thirty days as required by subdivision (a) of this rule or prior to the issuance of the writ of attachment, the prothonotary shall not issue the writ of attachment and shall send a notice of the claim for exemption of wages from

attachment to the plaintiff or, if represented, to the plaintiff's attorney. The prothonotary shall attach a copy of the claim to the notice.

Official Note: For the form of the notice for exemption, see Rule 3312(c).

(2) If the defendant files a claim for exemption after the writ of attachment has been issued, the attachment of the defendant's wages shall continue unless the defendant obtains a court order staying or vacating the attachment.

(c) A plaintiff who wishes to challenge the claim of exemption shall file a motion requesting the court to direct the prothonotary to issue a writ for the attachment of wages. The motion shall set forth facts which establish that the plaintiff is entitled to attach wages pursuant to Section 8127(a)(3.1) of the Judicial Code. If the motion on its face sets forth such facts, the court shall set a hearing date or set forth another procedure provided by Rule 208.4 as may be appropriate.

Source

The provisions of this Rule 3303 adopted December 21, 2005, effective one month after the date of the Order, 36 Pa.B. 176.

Rule 3304. Writ for the Attachment of Wages. Issuance. Service.

(a) The prothonotary shall issue a writ for the attachment of wages upon

(1) praecipe of the plaintiff where the defendant has not timely filed a claim for exemption of wages from attachment, or

(2) order of the court entered upon motion pursuant to Rule 3303(c).

(b) The prothonotary shall by ordinary mail send the writ to the garnishee and to the defendant.

(c) The writ of attachment of wages shall be substantially in the form provided by Rule 3313.

Official Note: Section 8127(c)(1) of the Judicial Code provides that the employer shall send the attached wages to the prothonotary of the court of common pleas within 15 days from the close of the last pay period in each month. Upon receipt of the attached wages, the prothonotary of the court of common pleas shall record and send said wages to the judgment creditor-landlord.

Source

The provisions of this Rule 3304 adopted December 21, 2005, effective one month after the date of the Order, 36 Pa.B. 176.

FORMS

Rule 3311. Praecipe for Notice of Intent to Attach Wages. Form.

The Praecipe for Notice of Intent to Attach Wages shall be substantially in the following form:

(Caption)

Praecipe for Notice of Intent to Attach Wages

To the Prothonotary:

Issue a Notice of Intent to Attach Wages in the above matter

- (1) against _____, defendant,
- (2) against _____, employer of the defendant.

Date: _____

 Attorney for Judgment
 Creditor-Landlord or
 Judgment Creditor-Landlord
 if unrepresented

Address

Telephone number

Certification by Judgment Creditor—Landlord

I certify that

- 1. The plaintiff judgment-creditor is

Name

Address

- 2. The defendant judgment-debtor is

Name

Address

- 3. The employer garnishee is

Name

Address

- 4. The judgment arises out of a residential lease for the premises at (address).

- 5. (a) The amount of the judgment is \$ _____ .

- (b) A security deposit in the amount of \$ _____ is being held by the judgment creditor-landlord. This security deposit _____ has been applied _____ has not been applied to payment of rent due on the same premises for which the judgment has been entered.
(Any security deposit that has not already been applied to rent will be deducted by the Prothonotary from the amount of the judgment in determining the amount to be attached.)
- (c) The amount of \$ _____ has been paid toward satisfaction of the judgment. (Do not include the security deposit.)
6. This praecipe is filed within five years of the date of the original judgment upon which execution is sought.
7. The judgment was entered (check one):
- _____ in a civil action commenced in the court of common pleas.
 _____ in an action brought before a magisterial district judge.
 _____ in an action commenced in the Philadelphia Municipal Court.
8. Check the appropriate paragraph and attach the required documents:
- ___ (a) If the judgment was entered in a civil action (Pa.R.C.P.M.D.J. 301 et seq.) before a magisterial district judge, a copy of the complaint filed with the magisterial district judge is attached to this Notice, showing that the action arose from a residential lease.
- ___ (b) If the judgment was entered in an action for the recovery of possession of real property (Pa.R.C.P.M.D.J. 501 et seq.) before a magisterial district judge, copies of the appropriate magisterial district judge records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action or that the complaint was served by handing a copy to the defendant.
- ___ (c) If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(A) or (C), a copy of the complaint filed with the Philadelphia Municipal Court is attached to this Notice, showing that the action arose from a residential lease.

- (d) If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(B), copies of the appropriate Philadelphia Municipal Court records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action.

I certify that the statements made in this Certification are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
 Judgment Creditor-Landlord

Source

The provisions of this Rule 3311 adopted December 21, 2005, effective one month after the date of the Order, 36 Pa.B. 176.

Rule 3312. Notice of Intent to Attach Wages. Claim for Exemption from Wage Attachment. Notice of Claim for Exemption of Wages from Attachment. Forms.

(a) The notice of attachment of wages required by Rule 3302(b) shall be substantially in the following form:

(CAPTION)

**NOTICE OF INTENT TO ATTACH
 WAGES, SALARY OR COMMISSIONS**

Date of service of this Notice: _____ (Date to be inserted by the Sheriff)

A judgment has been entered against you in court for nonpayment of rent for, or damage to, residential property that you rented. The judgment creditor-landlord has begun proceedings to attach 10% of your net wages, salary or commissions for each pay period until the judgment is satisfied.

The following exception will prevent your wages from being attached:

Poverty Guidelines—Your wages may not be attached if your net income is below the poverty income guidelines as provided annually by the Federal Department of Health and Human Services or if the amount of the attachment would cause your net income to fall below the poverty income guidelines. A copy of the guidelines is attached to this notice.

If this exemption is applicable to you, you must return the claim for exemption of wages which is attached to the prothonotary within 30 days of the date of service of this notice upon you. The date of service of this notice is set forth above. If you return the form claiming this exemption within 30 days, your wages will not be attached without subsequent court proceedings.

There may be other legal grounds for opposing the wage attachment that you may be able to raise by filing a motion with the court. For example, your wages may not be attached if you are an abused person or victim as set forth in Section

8127(f) of the Judicial Code when the attachment is to satisfy a judgment for physical damages to the leased premises.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

(b) The claim for exemption from wage attachment shall be substantially in the following form:

(CAPTION)

CLAIM FOR EXEMPTION FROM WAGE ATTACHMENT

Notice

This Claim for Exemption must be filed with the Prothonotary of the Court within 30 days of service upon you of the Notice of Intent to Attach Wages.

To the Prothonotary:

I, the above-named defendant, claim exemption of my wages, salary or commissions from attachment on the following ground:

_____ My net monthly income is below the poverty income guidelines as provided by the Federal Department of Health and Human Services.

OR

_____ The amount of wages to be attached would place my net income below the poverty income guidelines as provided annually by the Federal Department of Health and Human Services.

I have _____ dependents.

(Number)

My net monthly income is \$ _____ .

(Net monthly income is your total monthly wages less (1) any support payments made to the court, (2) federal, state and local income taxes, (3) F.I.C.A. payments and nonvoluntary retirement payments. (4) union dues and (5) health insurance premiums.)

I certify that the statements made in this Claim for Exemption are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Defendant

3000-99

This claim shall be delivered or mailed to
Office of the Prothonotary
Court of Common Pleas

Address

Telephone Number

(c) The notice of claim of exemption required by Rule 3303(b) shall be substantially in the following form:

(CAPTION)

**NOTICE OF CLAIM OF EXEMPTION
OF WAGES FROM ATTACHMENT**

To the above-named plaintiff:

The defendant in the above-captioned matter has filed a claim for exemption from attachment of his or her wages, salary or commissions. A copy of the claim is attached. If you wish to challenge the claim for exemption, you should file with the court a motion setting forth facts which show that the defendant's net income is not below the Federal Department of Health and Human Services poverty income guidelines or that the attachment will not cause the defendant's net income to fall below those poverty income guidelines.

Date: _____

Prothonotary

Source

The provisions of this Rule 3312 adopted December 21, 2005, effective one month after the date of the Order, 36 Pa.B. 176.

Rule 3313. Writ of Attachment of Wages. Form.

The writ of attachment of wages shall be substantially in the following form:

(Caption)

Writ of Attachment of Wages, Salary or Commissions

Commonwealth of Pennsylvania :

County of _____ :

To _____

Employer of Defendant _____

Name

You have been identified as the employer of the above-named defendant.

You are directed to withhold the wages, salary and commissions of the defendant in your possession to satisfy the judgment against the defendant.

You are notified that

1. an attachment of wages, salary and commissions has been issued;
2. you are ordered to withhold from the wages, salary and commissions of the defendant an amount per pay period which does not exceed ten (10) percent of the defendant's net wages, salary and commissions;

3000-100

Net wages are all wages paid less only the following items: (1) any support payments made to the court, (2) federal, state and local income taxes, (3) F.I.C.A. payments and nonvoluntary retirement payments, (4) union dues and (5) health insurance premiums.

- 3. the total amount attached is \$ _____ and the withholding must continue until the amount of the attachment is satisfied;
- 4. the attached wages shall be sent to the prothonotary of the court of common pleas within 15 days from the close of the last pay period in each month. The check must
 - a. contain the name of the employee whose wages are being withheld,
 - b. be made payable to the Prothonotary, and
 - c. be sent to

Prothonotary
 Court of Common Pleas
 Wage Attachment Remittance

 Address

 Telephone Number

- 5. you are entitled to deduct each pay period from the money collected from the defendant employee the costs incurred from the extra bookkeeping necessary to record the transaction, not exceeding \$5.00 of the amount of money so collected;
- 6. by law, you may not take any adverse action against the defendant because his or her wages, salary or commissions have been attached;
- 7. you shall send the following notice to the prothonotary if the defendant has never been or is no longer an employee:

I have received a Writ of Attachment in the following case:

_____ v. _____, No. _____ of _____ .
 Plaintiff Defendant Year

The following person, _____, has never been
 Name

(___) or is no longer an employee (___).

Date: _____

Employer

* * * * *

Seal of the Court

 Prothonotary
 By _____
 Deputy

Source

The provisions of this Rule 3313 adopted December 21, 2005, effective one month after the date of the Order, 36 Pa.B. 176.

[Next page is 4000-1.]

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(316426) No. 376 Mar. 06

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