

2

EXCERPT COLLECTING JUDGMENTS

Your judgment will be recorded (i.e., entered and indexed) in the judgment docket of this county. At the time your judgment is recorded it becomes a lien on any real property owned by the debtor in this county now or in the future. For your judgment to be a lien on real property in another county in this state it must be recorded in that county. This is done by obtaining a certified copy of the judgment and delivering it, along with the necessary fee, to the Clerk of the county in question for registering in that Clerk's judgment docket. The judgment will then become a lien on the debtor's real property in that county. Once the judgment is recorded, the judgment lien exists for a period of ten (10) years. At the end of the ten year period from its entry, the lien against real property will expire. However, the lien can be extended for another ten year period by bringing an action on a judgment within the ten year statute of limitations found in Ind. Code Section 34-11-2-11 prior to the expiration of the lien.

Although the judgment lien expires after ten years as a general rule, the judgment itself may be enforced for up to twenty (20) years after its entry. The expiration of the lien on real property will prevent the judgment creditor from collecting his or her judgment through execution on real property. After the expiration of twenty years a judgment is deemed satisfied under Ind. Code Section 34-11-2-12. The presumption of satisfaction is not conclusive and can be rebutted by the judgment creditor.

Collecting the judgment is your responsibility. The length of time it will take to collect will depend upon both your diligence and the debtor's ability to pay. When the judgment is entered, payment may be ordered in full or by installments. In addition, the court may order that the payments be made to the clerk's office. If payments are made to the clerk's office, neither that office nor the court will monitor payments, but you may call the clerk's office to ask about payments. If payment is not made, you have several legal methods of collection.

Filing a Proceedings Supplemental is the first step. When a Proceedings Supplemental is filed, the debtor is ordered to appear in court and answer questions under oath about his or her ability to pay based upon income, assets, liabilities, family size, etc. If you know that the debtor has a job and know the address of his or her employer, you may ask the clerk to issue Interrogatories to the employer when you file the Proceedings Supplemental. The court can determine from the answers to the Interrogatories whether the debtor has wages which can be garnished.

At the hearing, you will have the opportunity to ask the debtor, or inform the court, about the debtor's ability to pay. At the conclusion of the hearing, the judge may order any of the following:

- the Defendant to pay the judgment in full or in installments (the

installments may be modified at any time in the future);

- the Defendant to supply the court with current information regarding employment status and address;
- the Defendant to reappear sometime in the future to provide additional information;
- a garnishment of the debtor's earnings;
- execution against the debtor's personal property.

At any time in the future if the debtor fails to follow a court order or if you have reason to believe that the debtor's ability to pay has improved, you may ask that the debtor be ordered to come back to court. This can be done throughout the lifetime of the judgment.

If the debtor is served with notice of the hearing and does not attend, the court, may set a show cause hearing in order to determine whether the debtor is in contempt of court for failing to appear.

If the debtor cannot be found to be served with the order to appear, the winning party can request that the hearing be continued for a period of time to allow more time to find the debtor and to serve him or her with notice of the hearing.

Garnishment - The law limits the amount of garnishment and regulates the kinds of income that can be garnished. Only one garnishment can be applied at one time; it is important to "get in line" because garnishment orders are paid in the order that they are received by the employer. If the debtor changes jobs, you will have to ask for a new garnishment order.

Execution Against Personal Property - The personal property of the debtor can be attached and sold at execution. This means of collection is strictly controlled by statute and subject to many exemptions. For that reason it is advisable that you consult with an attorney if you think execution against personal property might be worthwhile.

If the Debtor Dies - To collect the judgment if the debtor dies before the judgment is paid, you must file a claim against the deceased's estate.

If the Debtor Files Bankruptcy - If it is shown to the court that the debtor has filed bankruptcy and your judgment is listed in the bankruptcy petition, the court is required by Federal law to stop collection proceedings. In that case, your only remedy is in