

## 6-19/220.00 Seizure of Specific Types of Property

The following types of property in the possession of the defendant are subject to a writ of attachment:

### WRIT OF ATTACHMENT BY TYPE OF SEIZURE

PROPERTY	TYPE OF SEIZURE
Chattel Paper	Take the Chattel Paper
Personal Property used as a Dwelling	Place a keeper on the property
Farm Products	Install a keeper on the property
Instruments	Take the property
Inventory of a Going Business	Install a keeper on the property
Mobilehome	The plaintiff may take the property
Negotiable Documents of Title	Take the property
Securities	Take the property

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### • 6-19/220.10 Chattel Paper

To levy upon chattel paper, the levying officer shall take the chattel paper into custody if it is in the possession of the defendant or, if it is in possession of a third person, personally serve a copy of the writ and a notice of attachment on the third person.

If the levying officer obtains custody of the chattel paper or if pursuant to a security agreement the defendant has liberty to collect or compromise the chattel paper or to accept the return of goods or make repossessions, the levying officer shall, if instructed by the plaintiff, serve a copy of the writ and a notice of attachment on the account debtor either personally or by mail. (CCP 488.435, 700.100)

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### • 6-19/220.20 Dwelling

To levy upon personal property used as a dwelling, the levying officer shall serve a copy of the writ and a notice of attachment on one occupant of the property. Service on the occupant shall be made

by leaving the copy of the writ and the notice with the occupant personally or, in the occupant's absence, with a person of suitable age and discretion found at the property when service is attempted who is a member of the occupant's family or household. If unable to serve such an occupant at the time service is attempted, the levying officer shall make the levy by posting the copy of the writ and the notice in a conspicuous place on the property. (CCP 488.415, 700.080)

House trailers and mobilehomes are classified as personal property capable of manual delivery when their wheels have not been removed, and they have not been so connected with the ground so as to become a fixture of the realty.

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### • • 6-19/220.21 Placing a Keeper

If the plaintiff desires greater security for the levy, a keeper shall be placed in charge of the property for whatever period requested by the plaintiff.

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### • • 6-19/220.22 Removal of Occupants

After levy, the plaintiff may, by noticed motion, apply for a court order for the levying officer to remove the occupants. The notice of motion shall be served either personally or by mail on an occupant, any legal owner and junior lienholder previously required to be served notice by the levying officer and, if the defendant is not the occupant, on the defendant. The occupants may be removed by the levying officer only pursuant to a court order.

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### • • 6-19/220.23 Legal Owner Notification

If a vehicle or vessel is levied upon and a certificate of ownership has been issued by the Department of Motor Vehicles for such vehicle or vessel and the certificate of ownership is still in effect, or if a manufactured home, mobilehome, or commercial coach is levied upon and a permanent title record has been established by the Department of Housing and Community Development for such manufactured home, mobilehome, or commercial coach, the levying officer shall determine from the appropriate department the name and address of the legal owner and each junior lienholder of the property levied upon. If the legal owner or junior lienholder is not the judgment debtor and is not in possession of the vehicle, vessel, manufactured home, mobilehome, or commercial coach, the levying officer shall at the time of levy or promptly thereafter serve a copy of the writ and a notice of attachment on the legal owner and any junior lienholder either personally or by mail. (CCP 488.425, 700.090)

If the levy was made by serving a garnishment, a copy of the original notice of attachment which was served on the garnishee shall suffice as the notice required to be served to any other person. (CCP 488.065, 699.545)

House trailers and undocumented vessels are required to be registered with the Department of Motor Vehicles. (VEH 630, 635, 4000, 5350 and 9840, et seq)

Manufactured homes, mobilehomes, and commercial coaches sold or used within this state are subject to registration with the Department of Housing and Community Development. (HS 18075) Mobilehomes which are subject to local property taxation pursuant to Revenue and Taxation Code 5800 et seq., are excepted from the annual registration generally required for mobile homes and commercial coaches, and are subject to registration only at the time of sale, resale or transfer of title. (HS 18075.5)

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### • 6-19/220.30 Instruments

To levy upon an instrument, the levying officer shall take the instrument into custody if it is in possession of the defendant or, if it is in possession of a third person, personally serve a copy of the writ and a notice of attachment on the third person.

If the levying officer obtains custody of the instrument, the levying officer shall, if instructed by the plaintiff, serve a copy of the writ and a notice of attachment on the obligor either personally or by mail. (CCP 488.440, 700.110)

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### • 6-19/220.40 Inventory and Farm Products

Under a writ of attachment, farm products or inventory of a going business may be attached by the levying officer either by seizure or the filing of a lien. This section does not apply to growing crops, timber to be cut, or minerals or the like.

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### • • 6-19/220.41 Keeper

To attach farm products or inventory of a going business in the possession or under the control of the defendant, the levying officer may place a keeper in charge of the property. During the keeper period, the business may continue to operate in the ordinary course of business provided that all sales are final and are for cash or its equivalent. For this purpose a check is the equivalent of cash, and the levying officer is not liable for accepting payment in the form of a cash equivalent. Unless the levying officer is otherwise instructed by the plaintiff, the keeper shall take custody of all proceeds from sales. The keeper shall remain in charge of the business for (CCP 488.395):

- 10 days if the defendant is a natural person and the writ has been issued ex parte, or
- two (2) days in all other cases.

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- • **6-19/220.42 Cash Only Keeper**

A keeper may be installed to collect cash or cash proceeds only. The time limitations are inapplicable and the defendant cannot object to a cash only keeper installation. (CCP 488.395(e), 700.070(c))

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- • **6-19/220.43 Taking Property Into Custody**

Unless some other disposition is agreed upon by the plaintiff and defendant, the levying officer shall take the farm products or inventory into exclusive custody at the earlier of the following times:

- At the time the defendant objects to placement of a keeper in charge of the business.
- At the conclusion of the applicable period prescribed (see 6-19/220.41).

If the plaintiff and defendant agree that it would be in the best interest of both parties to allow the business to operate beyond the applicable time period, and they jointly notify the Sheriff in writing, the business may continue to operate. Sheriff's Department personnel shall not arbitrarily extend the time the business may continue to operate beyond the applicable two or ten-day period. Sheriff's Department personnel shall not solicit such information from the plaintiff and defendant.

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- • **6-19/220.44 Lien with Secretary of State**

See 6-19/310.20 Inventory and Farm Products

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- **6-19/220.50 Negotiable Document of Title**

To levy upon a negotiable document of title, the levying officer shall take the negotiable document of title into custody if it is in the possession of the defendant or, if it is in the possession of a third person, personally serve a copy of the writ and a notice of attachment on the third person.

(CCP 488.445, 700.120)

- **6-19/220.60 Securities**

To levy on a certificated security in the possession of the defendant, the levying officer shall take the security into custody. (CCP 488.450; COMM 8112)

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- **6-19/220.70 Tangible Property in Defendant's Possession**

Unless another method of attachment is provided by this article, to attach tangible personal property in the possession or under the control of the defendant, the levying officer shall take the property into custody. (CCP 488.335)

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- **6-19/220.80 United States Savings Bond**

A United States Savings Bond is not listed as property which cannot be levied upon. (CCP 487.020, 699.720) United States Savings Bonds may be seized if the debtor is an owner or co-owner of the Bond(s). However, the method of levy, however, is based on federal law and regulations rather than state law. (31 Code of Federal Regulations 315.21) The value of the Bond(s) cannot be redeemed with the United States Government because it only recognizes a money judgment, not an attachment. The Bond(s) must remain in the levying officer's custody via storage until a final judgment is rendered and a Writ of Execution received. Once a Writ of Execution is received, the levying officer may transfer the attachment to execution, retrieve the Bond(s) from storage, and follow the procedures set forth in 6-20/520.60.

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