

## 6-19/240.00 Garnishment Levies on Specific Types of Property

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- **6-19/240.10 Account Receivable**

Unless another method of levy is provided, to levy upon an account receivable or general intangible, the levying officer shall personally serve a copy of the writ and a notice of attachment on the account debtor.

If a levy is made by serving the account debtor and payments on the account receivable or general intangible are made to a person other than the defendant (whether pursuant to a security agreement, assignment for collection, or otherwise) and if instructed by the plaintiff, the levying officer shall personally serve a copy of the writ and a notice of attachment on such third person. Such service is a levy on any amounts owed to the defendant by such third person. (CCP 488.470)

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- **6-19/240.20 Decedent's Estate**

To levy upon the interest of the defendant in personal property in the estate of a decedent, whether the interest arises by testate or intestate succession, the levying officer shall personally serve a copy of the writ and a notice of attachment on the personal representative of the decedent.

The personal representative shall report the levy to the court in which the estate is being administered when any petition for distribution is filed. If a decree orders distribution to the defendant, the court making the decree shall order the property levied upon to be delivered to the levying officer. The property may not be delivered to the levying officer until the decree has become final. To the extent the property delivered to the levying officer is not necessary to satisfy the attachment, it shall be released to the defendant.

Promptly after the property is delivered to the levying officer, the levying officer shall serve the defendant personally or by mail a notice describing the property. The defendant may file a claim of exemption within 10 days of such service, plus mailing time if service is by mail. (CCP 488.485)

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- **6-19/240.30 Deposit Account/Safe Deposit Box**

If the service is on a financial institution, a title insurer or underwritten title company, industrial loan company or savings and loan company, service shall be made at the office or branch that has actual possession of the property levied upon or at which a deposit account levied upon is carried and shall be made upon the officer, manager, or other person in charge of the office or branch at the time of service. (CCP 488.455, 488.460; FIN 6663) If served at a centralized location designated by the financial institution, other than a savings and loan association, the garnishment attaches all accounts at any location.

The word "officer" has been held to mean any other representative of the banking corporation whose

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duties, functions, and responsibilities are such that service upon him would reasonably inform the bank of such service. (Walters v. Bank of America, 9 CA 2d 46, 53)

A spousal affidavit, fictitious business name statement, and court order to levy on third party account are used exclusively to garnish deposit accounts/safe-deposit boxes.

See 6-05/800.29 (fees) and 6-20/560.31 for additional requirements regarding Open Safe Deposit Box.

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- **6-19/240.40 Final Money Judgment**

To attach a final money judgment, the levying officer shall file a copy of the writ of attachment and a notice of attachment with the clerk of the court that entered the final money judgment. The court clerk shall endorse upon the judgment a statement of the existence of the attachment lien and the time it was created. If an abstract of the judgment is issued, it shall include a statement of the attachment lien in favor of the plaintiff. The levying officer shall serve a copy of the writ and Notice of Attachment at the same time or shortly thereafter. (CCP 488.480)

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- **6-19/240.50 General Intangible**

Unless another method of attachment is provided by this article, to attach an account receivable or general intangible, the levying officer shall personally serve a copy of the writ of attachment and a notice of attachment on the account debtor. If the intangible is payable to a third-party, serve the writ and notice of attachment on the third-party. (CCP 488.470)

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- **6-19/240.60 Goods Held by Bailee**

To levy upon goods in the possession of a bailee, other than one who has issued a negotiable document of title therefore, the levying officer shall personally serve a copy of the writ and notice of attachment on the bailee. (CCP 488.365, 700.060(a))

If the goods are subject to a security interest, and the plaintiff instructs the levying officer to serve the secured party, the levying officer shall serve a copy of the writ and notice of attachment on the secured party either personally or by mail. (CCP 488.365, 700.060(b))

- **6-19/240.70 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)

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- **6-19/240.80 Securities**

To attach a security, the levying officer shall comply with COMM 8112. (CCP 488.450)

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- • **6-19/240.81 Certificated Security**

The interest of a debtor in a certificated security may be reached by a creditor only by actual seizure of the security certificate by the officer making the levy. However, a certificated security for which the certificate has been surrendered to the issuer may be reached by a creditor by legal process upon the issuer. (COMM 8112(a))

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- • **6-19/240.82 Uncertificated Security**

The interest of a debtor in an uncertificated security may be reached by a creditor only by legal process upon the issuer at its chief executive office in the United States. (COMM 8112(b))

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- • **6-19/240.83 Security in Possession of Secured Party**

The interest of a debtor in a certificated security for which the certificate is in the possession of a secured party, or in an uncertificated security registered in the name of a secured party, or a security entitlement maintained in the name of a secured party, may be reached by a creditor by legal process upon the secured party. (COMM 8112(d)) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. If a security interest is in favor of a trustee, indenture trustee, agent, collateral agent, or other representative, the representative is the secured party. "Security agreement" means an agreement which creates or provides for a security interest.

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• • **6-19/240.84 Security Entitlement**

"Security entitlement" means the owner holds a security indirectly through a securities intermediary. "Securities intermediary" means either a clearing corporation or a person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained. (COMM 8112(e)) Garnishments of shares or investment certificates of any savings and loan association

Must be served at the office at which the shares or certificates were issued if such branch is still being maintained and, if not, at the principal office of the association.

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