6-27/100.00 Execution Sale

The sale of property is not an action in of itself. In order for the Sheriff to sell property, the Sheriff must obtain jurisdiction by first levying on the property and having it in his possession or by virtue of recording in the case of real property. Please refer to 6-20/000.00 Writ of Execution (Money Judgment) to levy on property under a money judgment.

Cash may not be sold unless it has a value which exceeds its face value, such as in the case of rare coins. (CCP 701.510) Checks, drafts, money orders, etc., shall be endorsed and presented for payment. (CCP 687.020)

• 6-27/110.00 Possession of Writ by Levying Officer

A sale under a writ of execution must be made within two years of the issuance thereof, unless it be of an interest in personal property in the estate of a decedent, in which case it must be within one year after the date the decree distributing the interest became final. (CCP 699.560, 700.200; Ruddell v. Warne, 73 CA 2d 907)

The levying officer should not return a writ under which a levy was performed in a case where an execution sale is to be made, as the return of the writ to court terminates the power and duty of the levying officer. (Duncan v. Standard Accident Ins. Co., 1 C 2d 385) Although the judgment creditor could obtain a new writ, there no longer being a provision for redelivery of the prior writ upon the judgment creditor's request, another levy on the property would have to be performed under the new writ for the property to be sold under it. In such a case the priority of the judgment lien created by the second levy would relate back to the first levy if the prior lien had not expired at the time of the second levy. (CCP 697.020)

• 6-27/120.00 Sister State Money Judgment

Property levied upon pursuant to a writ issued under Sister State and Foreign-Country Money Judgments may not be sold or distributed before 30 days after the judgment creditor serves notice of entry of judgment upon the judgment debtor. Perishable property may be sold to prevent its destruction or loss of value, but the proceeds may not be distributed before the date sale of nonperishable property is permissible. (CCP 1710.45)

• 6-27/130.00 Decedentâ€™s Estate

If property of the decedent is subject to an execution lien at the time of the decedent's death, enforcement against the property may proceed under the Enforcement of Judgments Law to satisfy the judgment. The levying officer shall account to the personal representative for any surplus. If the judgment is not satisfied, the balance of the judgment remaining unsatisfied is payable in the course

of administration. (PROB 9303)

• 6-27/140.00 Levying Officer Cannot Purchase

The levying officer may not be a purchaser or have an interest in any purchase at a sale. (CCP 701.610)

• 6-27/150.00 Lien Extinguished by Sale

If either real or personal property is sold, the lien under which it is sold, any liens subordinate thereto, and any state tax lien (as defined in GC 7162) on the property sold are extinguished. (CCP 701.630)