6-31/310.40 Undertaking to Release Filed by Third Party

A third person may file an undertaking to release property in all cases in which a third party claim can properly be filed. However, an undertaking cannot be filed where property is levied upon pursuant to a prejudgment or post-judgment writ of possession. (CCP 720.610)

The third person shall file the undertaking, together with two copies thereof, with the levying officer either at the same time the third party claim is filed or subsequent thereto, at any time before the levying officer sells the property, delivers the property to the creditor, or pays the proceeds of collection to the creditor. (CCP 720.620)

The undertaking to release property shall contain a description of the property to be released and describe the interest of the third party. (CCP 720.630(a))

The third person's undertaking shall be made in favor of the creditor and provide that, if the court finds the debtor to have an interest in the property levied upon, the third person shall pay to the creditor the lesser of the following:

- amount required to satisfy the judgment (CCP 720.630(b)(1))
- a sum equal to the market value of the debtor's interest in the property(CCP 720.630(b)(2))

The amount of the third person's undertaking can be greater, but otherwise shall be the lessor of either:

- Twice the market value of the property to be released (CCP 720.630(c)(1))
- Twice the amount of the creditor's lien on the property (CCP 720.630(c)(2))

If the creditor has already filed an undertaking in response to the third person's claim, the undertaking shall be in the amount of the creditor's undertaking. (CCP 720.630(d))