6-31/600.00 Creditorâ€™s Undertaking

The creditor's undertaking indemnifying the third party shall be executed by two or more sufficient personal sureties or by one sufficient admitted surety insurer or by any combination of sufficient personal sureties and admitted surety insurers. (CCP 995.310)

• 6-31/610.00 Claim for Ownership or Possession

A creditor's undertaking is filed with the levying officer and shall:

- Be $10,000 or twice the amount of the execution lien (CCP 720.160(b))
  - The amount may also be larger
- Be made in favor of the third person (CCP 720.160(c)(1))
- Indemnify the third person against any loss, liability, damages, costs, and attorney's fees, incurred by reason of the enforcement proceedings (CCP 720.160(c)(2))
- Be conditioned on final judgment that the third person owns or has the right of possession of the property (CCP 720.160(c)(3))
- State the address at which the creditor may be served with notices, papers, and other documents (CCP 995.320(a)(2))

• 6-31/620.00 Claim of Security Interest or Lien

A creditor's undertaking is filed with the levying officer and shall be:

- $10,000 or twice the amount of the execution lien (CCP 720.260(b))
  - The amount may also be larger
- Made in favor of the third person (CCP 720.260(c)(1))
- indemnify the third person against any loss, liability, damages, costs, and attorney's fees, incurred by reason of the enforcement proceedings (CCP 720.260(c)(2))
- conditioned on final judgment that the third person owns or has the right of possession of the property (CCP 720.260(c)(3))
- State the address at which the creditor may be served with notices, papers, and other documents (CCP 995.320(a)(2))

The creditor may also deposit with the levying officer the amount claimed plus interest at the applicable rate to the estimated date of tender to the secured party or lienholder under (CCP 720.240(a)(4)(B)). (CCP

720.260(a))

• 6-31/630.00 Public Entity Exemption

A public entity is exempt from filing a bond or undertaking. (CCP 995.220) If the creditor is a public entity exempt from giving an undertaking, the public entity shall, in lieu of filing the undertaking, file with the levying officer a notice stating that the public entity opposes the claim of the third person. When so filed, the notice is deemed to satisfy the requirement of this section that an undertaking be filed. (CCP 720.160(d), 720.260(d))

• 6-31/640.00 Personal Sureties

A personal surety on a bond is sufficient if all conditions are satisfied:

- The surety is a person other than the principal. No officer of the court or member of the State Bar shall act as a surety (CCP 995.510(a)(1))
- The surety is a resident, and either an owner of real property or householder, within the state(CCP 995.510(a)(2))
- The surety is worth the amount of the bond in real or personal property, or both, situated in this state, over and above all debts and liabilities, exclusive of property exempt from enforcement of a money judgment (CCP 995.510(a)(3))

If the undertaking be given by individual or personal sureties, it must be accompanied by an affidavit of qualifications of each surety containing the surety. (CCP 995.520(a))

The affidavit shall contain all of the following:

- The name, occupation, residence address, and business address (if any) of the surety (CCP 995.520(b)(1))
- A statement that the surety is a resident, and either an owner of real property or householder, within the state (CCP 995.520(b)(2))
- A statement that the surety is worth the amount of the bond in real or personal property, or both, situated in this state, over and above all debts and liabilities, exclusive of property exempt from enforcement of a money judgment (CCP 995.520(b)(3))

If the bind exceeds $5,000, the affidavit shall also include:

- A description sufficient for identification of real and personal property of the surety situated in this state and the nature of the surety's interest therein that qualifies the surety on the bond (CCP 995.520(c)(1))
- The surety's best estimate of the fair market value of each item of property (CCP 995.520(c)(2))
- A statement of any charge or lien and its amount, known to the surety, whether of public record or not, against any item of property (CCP 995.520(c)(3))
- Any other impediment or cloud known to the surety on the free right of possession, use, benefit, or enjoyment of the property (CCP 995.520(c)(4))

If the amount of the bond exceeds $10,000 and is executed by more than two sureties, the affidavit may state that the surety is worth less than the amount of the bond and the bond may stipulate that the liability of the surety is limited to the worth of the surety stated in the affidavit, so long as the aggregate worth of all sureties executing the bond is twice the amount of the bond. (CCP 995.520(d))

• 6-31/650.00 Cash Deposit

In lieu of an undertaking, the creditor may deposit cash, bearer bonds and bearer notes of the United States or of the State of California, or other certificates as specified. (CCP 995.710)
