

Levy/Constable Sales Questions and Answers

1. Q. Why does the Court need to change its policies and procedures for conducting property levies and constable sales?
 - A. In 2016 the General Assembly passed House Bill (HB) 249 that amended Title 10, § 9553-9554. The bill provided that:
 - Appraisal of property levied shall be done using generally recognized appraisal standards (e.g., Kelly Blue Book) and/or the training and experience of the court constables, and;
 - The Court will develop rules and/or policy that may include setting minimum bids and other requirements to promote a fair value sale that benefits both judgment creditors and debtors

The Court needs to make the changes required by HB 249; at the same time the Court is revisiting the entire execution procedure to ensure fair value for all parties and improve efficiency of the execution/sale process for the Court.
2. Q. Under the proposed changes will I still be able to request a levy on any judgment?
 - A. No, the Court proposes that levies only be allowed if the original judgment awarded is equal to or exceeds \$500.
3. Q. Why \$500?
 - A. \$500 is the amount exempted from levies under the “Head of Household” provision of Title 10 §4903
4. Q. Can a property levy still be my first choice when requesting Court assistance collecting a judgment awarded by the Court?
 - A. No. Under the proposal a judgment creditor would first be required to attempt to collect through wage garnishment. A judgment creditor requesting a levy would provide the Court with evidence that a wage garnishment has been attempted or otherwise demonstrate to the Court why wage garnishment is not possible.
5. Q. How would a judgment creditor show that a wage garnishment was attempted or is not possible?
 - A. An affidavit would be required from the judgment creditor stating that a previous wage attachment was attempted, the date of the attempt, describing the outcome of that attempt to include the reason(s) the attempt was unsuccessful. The judgment creditor could also present other proof that would show limited effectiveness of garnishment, such as proof that the debtor is unemployed.
6. Q. When I file for a levy may I request that specific property be included in the levy?
 - A. It is the constable’s responsibility to determine what property to include in the levy. However, creditors may provide information on specific pieces of property such as motor vehicles and

manufactured housing, as provided by Court policy. By statute, constables are precluded from conducting “excessive” levies. To that end, constables would not levy on individual items, the value of which exceeds 120% of the judgment.

7. Q. Would titled property be levied that is jointly owned with a party not part of the judgment?
 - A. No. Under current law and procedure, titled property that is jointly owned by two or more people, one of whom is not part of the judgment (with joint ownership designated as “and” on the title) would not be levied. This proposal does not change that.
8. Q. How would the judgment debtor know what property has been levied?
 - A. Under current procedure, a copy of the completed levy form would be left with the judgment debtor or, if the constable had to return to the Court in order to calculate the value of an item, the inventory form would be mailed to the judgment debtor.
9. Q. How would the value of motor vehicles and other titled property (excluding manufactured housing) be determined?
 - A. Under the proposal, the value of such property would be based on the “Fair” condition value provided by a generally recognized and accepted source for estimating value, such as Kelly Blue Book, NADA Value Reports, eBay, etc.
10. Q. What if the property is obviously in less than “fair” condition?
 - A. The constable would have the discretion to adjust the value and condition accordingly. If in the constable’s judgment the property was in “poor” condition the value would be set at 20% of the estimated “fair” value.
11. Q. What basis would the constable use to determine the mileage of a motor vehicle?
 - A. The constable would use the actual mileage of the vehicle as shown on its odometer. However, if for any reason the odometer reading was not available, the mileage would be estimated based on a rate of 12,000 miles per year.
12. Q. What if the titled property is obviously not in running condition e.g. has no engine, transmission, etc?
 - A. In such a case the vehicle would be valued and sold as non-titled property.
13. Q. How would the value of a manufactured housing unit be estimated?
 - A. The value would be based on the National Automobile Dealers Association (NADA) value report provided by the judgment creditor and submitted to the Court with a Certificate of Lien from the Division of Motor vehicles (DMV).

14. Q. Who would pay for the NADA value report?
- A. Under this proposal, the judgment creditor is responsible for obtaining the value report, the cost of which (\$26) would NOT be added as an additional fee to the judgment amount. This is similar the current requirement that the judgment creditor provide a Certificate of Lien at their own expense for other titled property.
15. Q. What happens if the value of the manufactured housing unit exceeds the amount of the judgment by more than 120%?
- A. The constable would not include the unit in the levy.
16. Q. How would a constable estimate the value of non-titled property?
- A. As with current procedure, the value of non-titled property would be determined by the constable's training and experience.
17. Q. Are you proposing minimum bids for titled property at constable sales?
- A. Yes. We propose that the minimum bid on titled property (e.g., motor vehicles, trailers, manufactured housing) be 25% of the estimated value of the property.
18. Q. Would there also be minimum bids on non-titled property?
- A. Yes. The minimum bid for non-titled property would be \$25,
19. Q. Could items valued at less than \$25 be levied and sold at a constable sale?
- A. Yes. Constables would be permitted to group individual items of low value (less than \$25 each) together and sell the items as a set. Constables could also group items that would logically be sold as a set (e.g., dining room furniture, automobile tires of the same size and model, etc.) for levy and sale. Sets would not be broken up for individual sale.
20. Q. Could I purchase all or some of the levied items at a group discount?
- A. No. Offers for buying all or several of the goods offered at a sale would have to be least equal the sum of minimum values for all of the items.
21. Q. If I have a lien on property sold at a constable sale, how would I receive my portion of the sale amount?
- A. Lien holders are currently notified of the sale by the Court via certified mail and would receive funds only if they petitioned the Court requesting payment from the sales proceeds.