

# ASSET SEARCH

Law Florida Statute 489.141(1)1.a.: In order to be eligible for restitution from the Recovery Fund, you must show that you attempted collection of your judgment and that no real or personal property of the judgment debtor or licensee liable to be levied upon has sufficient value to satisfy the judgment or award. This attempt includes, but is not limited to: (1) filing your judgment in the county or counties where the judgment debtor resides and/or conducts business; (2) filing with the Secretary of State and receiving a judgment lien; (3) searching for assets that may be seized; and (4) levying upon those assets by having a Writ of Execution issued. Chapter 55, Florida Statutes.

**OR**

Law F.S. 489.141(1)1.b.: If you are unable to obtain a Writ of Execution, you must prove to the Board that you have conducted a search and inquiries to ascertain whether the judgment debtor is possessed of real or personal property subject to being sold or applied in satisfaction of the judgment, and you have discovered no property or assets to satisfy the judgment.

## **IF CIVIL JUDGMENT IS ON:**

- A. **CORPORATION ONLY:** You can try to collect only on assets that belong to the corporation. The individual Contractor in this case does not have a judgment against him, therefore his assets can not be touched.
- B. **CORPORATION & INDIVIDUAL:** You can try to collect on assets from both the corporation and the individual.
- C. **INDIVIDUAL:** You may only collect against the individual against whom the judgment is entered.

## **IF BANKRUPTCY IS INVOLVED:**

The bankruptcy *does not* do away with the statutory requirement that you have either a judgment, order of restitution or award in arbitration. You may have to get permission from the bankruptcy court to proceed. Consult your attorney for guidance.

### Chapter 7:

The trustee takes possession of all the debtor's property. The debtor's debts are discharged, and an automatic stay is granted. If a Chapter 7 discharge is granted then you will need:

1. Notice of Commencement
2. Schedule listing you as a creditor
3. Discharge of Debt Order (Case Closure Order for corporate debtors)
4. Trustee's Report of No Distribution
5. Relief of the automatic stay that allows you to use the judgment in order for the Claimants to be compensated from the State Recovery Fund.

Chapter 13: Designed for individuals with regular income, who are temporarily unable to pay their debts. Under certain circumstances, restitution from the Recovery Fund cannot be awarded. If the creditor/complainant/Claimant, does not file for his desire for repayment on his claim, he/she has not made a Diligent Attempt to Collect, and therefore is ineligible for reimbursement from the Recovery Fund. You will need:

1. Notice of Commencement
2. Schedule listing you as a creditor
3. Copy of Plan of Repayment
4. Order Accepting Plan

Chapter 11: Reorganization. No discharge of debts is issued. Under Chapter 11, the company can be rehabilitated. Under certain circumstances, restitution from the Recovery Fund cannot be awarded. If the creditor/complainant/Claimant, does not file for his desire for repayment claim, he/she has not made a Diligent Attempt to Collect, therefore, is ineligible for reimbursement from the Recovery Fund. You will need:

1. Notice of Commencement
2. Schedule listing you as a creditor
3. Copy of Plan of Reorganization
4. Order Accepting Plan