

INFORMATION GUIDES

[Return to Fee Schedule Summary](#)

Title	Description
Court Document required	<ul style="list-style-type: none">• Original Writ of Attachment (form AT 135) plus three copies;• 3 copies of the Order for Issuance of Writ of Attachment (form AT 125 or AT 130.);• 3 copies of the Right to Attach Order (forms AT-120, AT-125, or AT-130)• 3 copies of the Undertaking per Code of Civil Procedure §489.210 & 489.220• 2 copies of the summons and complaint (form 982a16), if not already served.
Purpose of Process	A writ of attachment authorizes the Sheriff to seize inventory (not equipment) in the defendant's business by placing a keeper (custodian) in the business to collect sale proceeds and prevent the removal of any inventory.
Sheriff's Instructions	Specify the name and address of the business. If the writ was issued ex parte, state whether the defendant has appeared in the action. Also provide the name and address of the defendant's attorney, if any. The plaintiff's attorney or the plaintiff (if the plaintiff doesn't have an attorney) must sign and date the Sheriff's instructions.
Time for Service	The Writ of Attachment expires 60 days after receipt by the Sheriff.
Manner of Service	The method of levy is seizure by placing a Sheriff's keeper in the defendant's business to prevent removal of property and to collect sales proceeds for payment to the creditor. The Sheriff collects sales revenue and prevents removal of property from the debtor's business for an 8-hour period.
Fee Deposit	\$0.00
Fee	\$240.00
Proof of Service	A proof of service is not issued. Instead, a return detailing the Sheriff's action is prepared that accompanies the writ when it is returned to the court. The Sheriff telephonically notifies the creditor when the keeper is placed.

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Seizure is the method of levy for personal property in a defendant's going concern (business). The Sheriff holds property levied under a writ of attachment until the lawsuit is adjudicated. Ordinarily, the defendant has the opportunity to attend a hearing to oppose the issuance of a writ of attachment. However, the court may issue a writ of attachment ex parte without notice to the defendant under certain circumstances. The placement of a keeper in the defendant's business for an 8-hour period is a relatively inexpensive form of seizure and is particularly useful when used as a "fact-finding mission" to identify equipment and inventory at the defendant's business. A deputy sheriff performs the levy by placing a keeper (custodian) in the debtor's business for an 8-hour period. During that time, the keeper seizes incoming cash and checks from the sale of merchandise and prevents the removal of any stock-in-trade unless paid for. The keeper also prepares a written inventory of the property found at the business. If further action is required, the plaintiff may refer to the keeper's inventory to weigh the feasibility of having the Sheriff seize, move to storage and sell some or the entire inventory. Equipment of the business is not subject to seizure as a lien filed with the Secretary of State is the proper method of levy.

The Sheriff must serve a copy of the writ of attachment, order for issuance of the writ and notice of attachment on the defendant. If the defendant has an attorney of record, service must be made on the attorney rather than the defendant. If the writ of attachment was issued ex parte and the defendant did not appear in the action, e.g., defendant did not file a response with the court, the service must be made in the same manner as a summons. Otherwise, service may be made by mail. Consequently, the instructions to the Sheriff must provide the name and address of the defendant's attorney, if any, and indicate whether the defendant has appeared in the action (if the writ was issued ex parte).

Sheriff's Instructions-Levy upon the Debtors Going Business

Checklist

- \$240 fee deposit
- Original Writ of Attachment (form AT 135) plus three copies;
- 3 copies of the Order for Issuance of Writ of Attachment (form AT 125 or AT 130.);
- 3 copies of the Right to Attach Order (forms AT-120, AT-125, or AT-130)

- 3 copies of the Undertaking per Code of Civil Procedure §489.210 & 489.220
- 2 copies of the summons and complaint (form 982a16), if not already served.
- Sheriff's Instructions