

SENATE, No. 1054

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 26, 2006

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

SYNOPSIS

Revises present statutes concerning procedures in civil actions relating to judgments and collection of judgments.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT supplementing Title 2A of the New Jersey Statutes,
2 enacting an additional chapter 17A, Judgments and chapter 17B,
3 Collection of Judgments and repealing various sections of the
4 statutory law.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. An additional chapter, chapter 17A, is added to Title 2A as
10 follows:

11
12 TITLE 2A
13 CHAPTER 17A
14 JUDGMENTS

- 15 2A:17A-1. Records.
16 2A:17A-2. Case Docket.
17 2A:17A-3. Judgment Docket.
18 2A:17A-4. Address of Judgment Holder.
19 2A:17A-5. Attachments and Execution of Process.
20 2A:17A-6. Assignment, Subordination or Release of Lien;
21 Warrant to Satisfy; Satisfaction.
22 2A:17A-7. Judgment Lien; Judgment as Conveyance.
23 2A:17A-8. Judgment Docket as Notice.
24 2A:17A-9. Indexes.
25 2A:17A-10. Security for Payment of Judgment; Order
26 Discharging Real Estate from Lien.
27 2A:17A-11. Offset by Municipality.
28 2A:17A-12. Cancellations following Discharges in Bankruptcy.
29 2A:17A-13. Ex parte Entry of Judgment on Written Settlement
30 Agreement.

31
32 2A:17A-1. Records.

33 The Clerk of the Superior Court shall keep indexed copies of
34 every judgment and order, and any other instrument in a civil action
35 which the Administrative Director with the approval of the Chief
36 Justice shall require, in a form acceptable to them.
37 (Source: 2A:16-12)

38 2A:17A-2. Case docket.

39 a. The Clerk of the Superior Court shall keep a case docket and
40 shall make a dated entry in it of every civil action in the Superior
41 Court, other than in the Law Division, Special Civil Part, and every
42 judgment, order and execution of process, and of any other
43 instrument which the Administrative Director with the approval of
44 the Chief Justice shall require. The entry shall state where a copy
45 of the full judgment or order is kept.

46 b. The dated entry shall constitute the record of the judgment or
47 order.

48 c. A judgment or order takes effect only upon entry in the case

1 docket, unless the court directs otherwise in the judgment or order.

2 (Source: New)

3 2A:17A-3. Judgment docket.

4 The Clerk of the Superior Court shall keep a judgment docket
5 and upon request and receipt of any required fee shall make a dated
6 entry in it of the parties and their addresses and amount of the
7 following judgments and orders:

8 a. Any judgment or order for payment of a fixed total amount of
9 money entered from the Superior Court except from the Special
10 Civil Part, including :

11 (1) a judgment or order to apply a fixed total amount of money
12 for counsel fees and other fees or costs; and

13 (2) a judgment or order to pay a fixed total amount of money as
14 arrearages resulting from failure to make periodic payments.

15 b. Any judgment or order affecting title to or a lien upon real or
16 personal property or for conveyance or release of real property.

17 c. Upon filing of a statement required by N.J.S.2A:18-32 et seq.,
18 any judgment of the Special Civil Part of the Law Division.

19 d. Upon written request pursuant to N.J.S.2B:12-26, any
20 municipal court judgment assessing a penalty.

21 e. Any certificate or lien filed by a State or county officer or
22 agency required by law to be docketed.

23 f. Any final order of a State administrative agency that may be
24 recorded as a judgment pursuant to section 1 of P.L.1999, c. 274
25 (C.2A:58-10).

26 (Source: 2A:16-11, R.4:101- 4)

27 2A:17A-4. Address of judgment holder. The clerk shall enter the
28 address of the holder of a judgment with each judgment entered in
29 the judgment docket. A judgment holder shall file a new address
30 with the clerk promptly after each change in address.

31 (Source: New)

32 2A:17A-5. Attachments and execution of process.

33 The clerk shall enter in the judgment docket, if the judgment is
34 entered there, and otherwise in the case docket:

35 a. Any attachments, giving the names of plaintiff and defendant;
36 and the time when, and amount for which, writ of attachment
37 issued; and

38 b. Notation of any return showing execution of process resulting
39 in full or partial satisfaction of the judgment.

40 (Source: 2A:16-11)

41 2A:17A-6. Assignment; subordination or release of lien; warrant
42 to satisfy; satisfaction.

43 The clerk shall enter in the judgment docket, if the judgment is
44 entered there, and otherwise in the case docket, notation of any
45 assignment of, subordination or release of the lien of, warrant to
46 satisfy, and satisfaction of, any judgment.

47 a. Assignment. An assignment of a judgment shall be in
48 writing, and acknowledged or proved as required for conveyance of

1 real estate.

2 b. Subordination or release of lien of judgment. A subordination
3 or release of the lien of judgment shall contain a description of the
4 property as to which the judgement lien is to be subordinated and
5 shall be acknowledged or proved as required for conveyance of real
6 estate.

7 c. Satisfaction. Satisfaction shall be (1) by order of the court on
8 motion after receipt of money paid into court; (2) upon receipt
9 from the satisfied party of an acknowledged satisfaction or warrant
10 directing entry of satisfaction; (3) upon the filing of a warrant or
11 the satisfied return by the sheriff or other officer of an execution
12 issued on a judgment; or (4) upon order of the court on motion of
13 the party making satisfaction. A creditor that receives full
14 satisfaction of a judgment shall enter satisfaction on the record or
15 deliver a warrant to satisfy to the debtor. A creditor that fails to
16 enter satisfaction or deliver a warrant within 30 days after written
17 request by the debtor shall be liable to the debtor for \$100 and, in
18 addition, for any loss caused to the debtor by the failure.

19 (Source: 2A:16-15, 2A:16-41, 2A:16-44, 2A:16-45, 2A:16-46,
20 2A:16-47, 2A:16-48)

21 2A:17A-7. Judgment lien; judgment as conveyance.

22 a. A Superior Court judgment or order for the payment of a
23 fixed total amount of money shall be a lien on real estate from the
24 time it is entered in the judgment docket.

25 b. When the party against whom a Superior Court judgment is
26 entered for conveyance or release of real estate or an interest in it,
27 does not comply by the time specified in the judgment, or within 15
28 days after entry of judgment if no time is specified, the judgment
29 shall act as the conveyance or release without further order of the
30 court.

31 (Source: 2A:16-1, 2A:16-7)

32 2A:17A-8. Judgment docket as notice.

33 a. Entry of an instrument in the judgment docket serves as notice
34 to all persons of that instrument.

35 b. Entry of the address of a judgment holder in the judgment
36 docket serves as notice to all persons of the proper address for
37 notification of matters concerning the judgment.

38 (Source: New)

39 2A:17A-9. Indexes.

40 The clerk shall maintain an alphabetical debtor index of the
41 judgment docket and other suitable alphabetical indexes of
42 judgments, assignments of judgments, subordinations or releases of
43 the liens of judgments, or warrants to satisfy judgments, in
44 accordance with the Rules of Court.

45 (Source: 2A:16-16)

46 2A:17A-10. Security for payment of judgment; order discharging
47 real estate from lien.

48 a. If a person, in appealing a Superior Court judgment, deposits

1 with the clerk of the court an amount which the court deems
2 sufficient as security for payment of the amount finally to be
3 determined to be due, the court, by order, may discharge appellant's
4 real estate from the lien of the appealed judgment.

5 b. The deposited amount shall be subject to the lien of the
6 appealed judgement and of any later judgment recovered. The clerk
7 shall retain the deposit until final determination of the action.

8 c. When the order has been entered in the case docket and the
9 deposit made, the clerk shall enter the order following the judgment
10 entry in the judgment docket.

11 (Source: 2A:16-3)

12 2A:17A-11. Offset by municipality.

13 When a person recovers a judgment against a municipality to
14 which the person is or becomes personally indebted before
15 satisfaction of the judgment, the municipality may apply for an
16 order to offset the personal indebtedness against the judgment.

17 (Source: 2A:16-8)

18 2A:17A-12. Cancellations following discharges in bankruptcy.

19 a. Any time after a debtor has received a discharge in
20 bankruptcy and the period allowed by federal bankruptcy law for
21 revocation of the discharge has elapsed, if a judgment is specifically
22 listed in the discharge, the debtor may file a copy of the discharge
23 with the Clerk of the Superior Court. On receipt of the discharge,
24 the clerk shall cancel the judgment on the record of judgment,
25 giving the date of entry of the discharge order.

26 b. Any time after a debtor has received a discharge in
27 bankruptcy and the period allowed by federal bankruptcy law for
28 revocation of the discharge has elapsed, the debtor may apply, upon
29 proof of discharge, to the court which rendered judgment against
30 the debtor, or to the court where it became a judgment by
31 docketing, for an order directing the judgment to be canceled of
32 record.

33 c. If it appears at a hearing that the debtor has been discharged
34 from payment of the judgment or the debt upon which the judgment
35 was recovered, the court shall order the judgment to be canceled of
36 record. On receipt of the order, the clerk shall cancel the judgment
37 on the record of judgment, giving the date of entry of the discharge
38 order.

39 d. The discharged judgment may be used as a set-off in any
40 action in which it otherwise could be used. In all other respects the
41 judgment shall be without force or validity.

42 (Source: 2A:16-49.1)

43 2A:17A-13. Ex parte entry of judgement on written settlement
44 agreement.

45 a. A judgment may be entered on a written agreement which
46 consents to the entry of judgment only as provided in this section.
47 Notice of the application for entry of judgment shall be given to the
48 defendant in the form required by the Rules of Court for notice of

- 1 application for entry of default judgment.
- 2 b. The written agreement consenting to entry of judgment may
- 3 be executed only after the acts or omissions of defendant have
- 4 created a cause of action against the defendant for the amount of the
- 5 judgment.
- 6 c. The application for entry of judgement shall be supported by
- 7 an affidavit of the facts on which the judgment is based.
- 8 d. The agreement shall authorize entry of judgment for a
- 9 specific sum or for a sum to be calculated in a manner provided in
- 10 the agreement.
- 11 e. The agreement may authorize immediate entry of judgment or
- 12 it may impose new obligations on the defendant and condition entry
- 13 of judgment upon failure to comply with its terms.
- 14 f. Nothing herein shall apply to entry of a final order of a State
- 15 administrative agency, including a final consent order, in
- 16 accordance with section 1 of P.L.1999, c.274 (C.2A:58-10).

17

18 2. An additional chapter, chapter 17B, is added to Title 2A as

19 follows:

- 20 TITLE 2A
- 21 CHAPTER 17B
- 22 COLLECTION OF JUDGMENTS
- 23
- 24 2A:17B-1. Definitions.
- 25 2A:17B-2. Issuance of Collection Orders.
- 26 2A:17B-3. By Whom Issued.
- 27 2A:17B-4. To Whom Issued.
- 28 2A:17B-5. Form and Contents of Collection Orders.
- 29 2A:17B-6. Exemptions.
- 30 2A:17B-7. Selection of Exempt Personal Property.
- 31 2A:17B-8. Receipt of Collection Orders.
- 32 2A:17B-9. Judgment Creditor's Collection Instructions.
- 33 2A:17B-10. Levy Against Personal Property in Possession of
- 34 Judgment Debtor.
- 35 2A:17B-11. Levy Against Personal Property in a Dwelling.
- 36 2A:17B-12. Levy Against Property in an Inaccessible Place.
- 37 2A:17B-13. Levy Against Personal Property in the Custody of a
- 38 Third Party.
- 39 2A:17B-14. Service and Mailing of Notice of Levy.
- 40 2A:17B-15. Collection Orders Against Earning; Earnings Subject
- 41 to Collection Orders.
- 42 2A:17B-16. Priorities Among Collection Orders Against
- 43 Earnings.
- 44 2A:17B-17. Payments Under Collections Orders Against
- 45 Earnings.
- 46 2A:17B-18. Collection Order; Lien on Personal Property.
- 47 2A:17B-19. Sale or Other Disposition of Property.
- 48 2A:17B-20. Property Sold, Manner.

1 2A:17B-21. Objections to Sale or Disposition of Property.

2 2A:17B-22. Priorities in Distribution of Proceeds.

3 2A:17B-23. Disputes Over Distribution of Proceeds.

4 2A:17B-24. Return of Collection Order.

5 2A:17B-1. Definitions

6 As used in this chapter:

7 "Earnings" means payment for personal services performed,
8 whether described as wages, salary, commission, fees, bonus, tips,
9 pension and retirement benefits or otherwise.

10 "Collection officer" includes a sheriff's officer, Special Civil Part
11 officer or any other person performing similar functions.

12 "Collection order" means a court order, formerly called a writ of
13 execution, directing the collection officer to satisfy a money
14 judgment from the property of a judgment debtor.

15 "Property of the judgment debtor" means all interests in real
16 property, all forms of personal property, including rights and
17 credits, and all earnings.

18 (Source: New)

19 2C:17B-2. Issuance of collection orders.

20 a. At the request of a judgment creditor and upon receipt of any
21 required fee, the clerk of the court shall issue a collection order
22 directing the satisfaction of a money judgment from the property of
23 the judgment debtor.

24 b. A collection order may be issued only within 20 years after
25 entry of the judgment to be collected, or if the judgment has been
26 revived, a collection order may be issued only within 20 years after
27 the date of the revival of the judgment.

28 (Source: 2A:17-3)

29 2A:17B-3. By whom issued.

30 a. A collection order against any property of the judgment
31 debtor may be issued by the Clerk of the Superior Court if the
32 judgment is recorded in the judgment docket of the Superior Court.

33 b. A collection order against personal property or earnings may
34 be issued by the Clerk of the Special Civil Part if the judgment is
35 recorded in the case records of the Superior Court, Law Division,
36 Special Civil Part but not in the judgment docket of the Superior
37 Court.

38 (Source: 2A:17-4; 2A:17-17)

39 2A:17B-4. To whom issued.

40 a. Collection orders for judgments recorded in the judgment
41 docket of the Superior Court may be directed to the sheriff of any
42 county.

43 b. Collection orders for judgments recorded in the case records
44 of the Superior Court, Law Division, Special Civil Part but not in
45 the judgment docket of the Superior Court shall be directed to the
46 officer responsible for enforcing judgments of the Law Division,

1 Special Civil Part in any county.

2 (Source: 2A:17-4)

3 2A:17B-5. Form and contents of collection orders.

4 a. A collection order shall specify in its title whether it is
5 directed at the property, or the earnings, of the judgment debtor.

6 b. A collection order shall include such information concerning
7 the judgment, the judgment creditor and the judgment debtor as the
8 Rules of Court require.

9 (Source: New)

10 2A:17B-6. Exemptions.

11 a. The following property of a judgment debtor, who is either a
12 natural person resident in the State of New Jersey or the estate of a
13 decedent who was resident in the State of New Jersey, shall be
14 exempt from a collection order pursuant to this chapter:

15 (1) property that federal or other State statute forbids taking to
16 satisfy a State judgment;

17 (2) wearing apparel of the judgment debtor other than furs and
18 jewelry; and

19 (3) goods, cash, bank deposits and similar financial property
20 collectible as cash selected as provided in N.J.S. 2A:17B-7 whose
21 aggregate value does not exceed \$1,000.00.

22 b. The exemptions provided in this section shall not apply if the
23 judgment being enforced:

24 (1) arises from the purchase of the same property against which
25 collection is sought; or

26 (2) is for child support; or

27 (3) is for the collection of taxes or assessments.

28 (Source: 2A:17-19)

29 2A:17B-7. Selection of exempt personal property.

30 a. In consultation with the collection officer, the judgment
31 debtor may select any item or items of personal property whose
32 aggregate value is not greater than the values allowed under
33 paragraph (3) of subsection a. of N.J.S.2A:17B-6. The selected
34 item or items shall be exempt from levy. If the debtor fails to
35 respond to notice within 10 days, and if the value of the property
36 may exceed the statutory exemption, on application of the creditor,
37 the court shall decide which property if any shall be exempt. The
38 court ordinarily shall apply the exemption to personal goods before
39 applying it to cash, bank deposits and similar financial property,
40 and shall determine the order in which tangible property shall be
41 sold.

42 b. The collection officer shall prepare an inventory of the items
43 of personal property selected for exemption by the judgment debtor
44 and shall include an impartial and honest evaluation of each item
45 inventoried. The value of an item shall be the price judged to be
46 that for which the item would be sold at public sale. Copies of the
47 inventory shall be given to the debtor and to creditor and to their
48 counsel.

1 c. Within 10 days after receipt of the inventory, either the debtor
2 or the creditor may dispute the value of any item in the inventory by
3 notice to the other party by submitting a written statement under
4 oath concerning the value and applying to the court to make a
5 determination of the value of the items in dispute. The court may
6 receive or require testimony or evidence, including expert
7 appraisals as necessary to make its determination.

8 d. If neither party disputes the values in the inventory, the
9 judgment debtor, on the basis of the inventory values, shall select
10 items whose aggregate value is not greater than the values allowed
11 under paragraph (3) of subsection a. of N.J.S.2A:17B-6. These
12 items shall be exempt from levy. If either party disputes the values
13 in the inventory, the judgment debtor, on the basis of the values
14 determined by the court, shall select items whose aggregate value is
15 not greater than the values allowed under paragraph (3) of
16 subsection a. of N.J.S.2A:17B-6. These items shall be exempt from
17 levy.

18 (Source: 2A:17-20 through 2A:17-28)

19 2A:17B-8. Receipt of collection orders.

20 The collection officer shall record on a collection order the date
21 and time it was received.

22 (Source: 2A:17-11)

23 2A:17B-9. Judgment creditor's collection instructions.

24 a. A judgment creditor who obtains a collection order shall
25 submit written instructions to the collection officer with the order.

26 b. The collection instructions shall contain a description of
27 personal property to be levied against, by item, type or location
28 sufficient to identify it for levy. If all property at particular
29 premises occupied by the debtor is to be levied against, an
30 instruction stating that shall be sufficient. The collection
31 instructions shall contain a description of real property to be levied
32 against sufficient to identify it. The instruction shall state whether
33 the property is located in a dwelling.

34 c. The collection officer shall record on the collection
35 instructions the date they were received.

36 d. The collection officer shall comply with the lawful written
37 collection instructions of the judgment creditor.

38 e. The collection officer may levy against property of the
39 judgment debtor subject to the collection order but not identified in
40 the collection instructions of the judgment creditor, unless the
41 instructions of the judgment creditor state otherwise.

42 (Source: New)

43 2A:17B-10. Levy against personal property in possession of
44 judgment debtor.

45 a. A collection officer may levy against personal property in the
46 possession of the judgment debtor in any of the following ways:

47 (1) by removing the property to a place of safekeeping;

48 (2) by installing a custodian in the place where the property is

1 located to maintain custody over the property; or

2 (3) by any other reasonable means of obtaining possession or
3 control of the property.

4 b. If the creditor agrees, the collection officer, in place of
5 making a levy, may leave the property in the custody of the debtor
6 until the sale. The collection officer shall list each item of property
7 left in the custody of the debtor and give a copy of the list to the
8 debtor and to the creditor. The debtor shall not intentionally
9 damage or dispose of property left by the collection officer. This
10 action by the collection officer shall be considered equivalent to a
11 levy for the purpose of establishing the rights of the creditor as
12 against other judgment creditors, but it shall not affect the rights of
13 a person who, not knowing that the property is held pending public
14 sale, purchases the property or acquires a lien for fair value.
15 (Source: 2A:17-14)

16 2A:17B-11. Levy against personal property in a dwelling.

17 a. If the judgment creditor instructs the officer to levy against
18 personal property located in the judgment debtor's dwelling place,
19 the officer shall demand access to the property at the dwelling place
20 where the property is located. At the time the demand is made the
21 officer shall inform the judgment debtor that the judgment debtor
22 may be liable for costs incurred in any further proceedings to obtain
23 access to the property. If the judgment debtor does not allow access
24 to the property upon demand of the collection officer, the officer
25 shall promptly notify the judgment creditor of the failure to obtain
26 custody of the property.

27 b. Whether or not a demand has been made pursuant to
28 subsection a. of this section, the judgment creditor may apply to the
29 court which issued the collection order for an order directing the
30 collection officer to levy against a judgment debtor's property
31 located in a dwelling place. An application for an order to seize
32 property shall describe with particularity sufficient to identify
33 them, both the property sought to be levied against, and the place
34 where it is to be found, according to the best knowledge and belief
35 of the judgment creditor. The court may not issue the order unless
36 the judgment creditor establishes that there is probable cause to
37 believe that the property to be levied against is located in the place
38 described. At the time delivery of the property is demanded, the
39 officer shall make known his or her purpose and authority, and shall
40 announce that persons interfering with officers enforcing the order
41 are subject to arrest for obstructing an officer.

42 (Source: New)

43 2A:17B-12. Levy against property in an inaccessible place.

44 a. If the judgment creditor instructs the officer to levy against
45 personal property located in a place inaccessible to the collection
46 officer, which is other than a dwelling place, the collection officer
47 shall demand access to the property at the place where the property
48 is located. At the time access to the property is demanded, the

1 collection officer shall make known his or her identity, purpose, and
2 authority,

3 and shall announce that persons interfering with officers enforcing
4 the order shall be subject to arrest for obstructing an officer.

5 b. If access to the property is not given, the collection officer
6 may use force to obtain access to the property and may cause the
7 place where the property is believed to be located to be opened in
8 the manner that the collection officer reasonably believes will cause
9 the least damage.

10 (Source: New)

11 2A:17B-13. Levy against personal property in the custody of a
12 third party.

13 a. If the judgment creditor instructs the collection officer to levy
14 against personal property in the possession of a person other than
15 the judgment debtor, the officer shall serve a copy of the collection
16 order personally on the person who has possession of the property.

17 b. The service of the collection order shall be effective against:

18 (1) any personal property of the judgment debtor in the custody
19 of the third party at the time of service; and

20 (2) any additional personal property of the judgment debtor in
21 the custody of the third party at the time of the order directing that
22 the property be turned over to the collection officer.

23 c. Service of the collection order on any office of a business
24 shall be effective against any personal property of the judgment
25 debtor of the business.

26 d. During the time the levy is in effect, the third party holding
27 custody of personal property subject to the collection order shall
28 hold the property pending order of the court and shall not honor any
29 other demand for the property.

30 e. Any time within 60 days after levy, the creditor may make a
31 motion pursuant to the Rules of Court for an order directing that
32 the property be turned over to the collection officer.

33 (Source: 2A:17-58; 2A:17-63)

34 2A:17B-14. Service and mailing of notice of levy.

35 a. At the time the collection officer levies against property of a
36 judgment debtor, the officer shall serve a copy of the order on the
37 person who has custody of the property levied against; and

38 b. The collection officer shall mail a copy of the collection order
39 and notice of levy on the same day:

40 (1) to the judgment debtor, if the order and notice have not been
41 served upon the judgment debtor;

42 (2) to any person whom the officer actually knows may have
43 an interest in the property described in the notice; and

44 (3) to the attorneys for the judgment debtor and creditor.

45 c. A notice that specific property has been levied against shall
46 contain a description of the specific property levied against, a
47 statement of the debtor's right to exempt property from collection,
48 and any other information required by the Rules of Court.

1 (Source: New)

2 2A:17B-15. Collection orders against earnings; earnings subject
3 to collection orders.

4 a. At the request of a judgment creditor, the Superior Court shall
5 issue either a collection order directing an employer to withhold a
6 portion of a debtor's earnings, or a collection order to the debtor to
7 make periodic payments to the creditor from earnings.

8 b. A collection order, other than a support order, against the
9 earnings of a judgment debtor shall provide that 10% of gross
10 earnings shall be taken unless the court finds that the needs of the
11 debtor require that a lesser percentage be taken or allow a greater
12 percentage to be taken. The amount to be withheld shall not exceed
13 the amount allowed under section 303 of the Federal Consumer
14 Credit Protection Act (15 U.S.C. sec.1673).

15 (Source: 2A:17-50; 2A:17-56)

16 2A:17B-16. Priorities among collection orders against earnings.

17 a. If more than one collection order against the earnings of a
18 judgment debtor is served on an employer:

19 (1) only one collection order against earnings shall be satisfied
20 at one time;

21 (2) support orders shall be satisfied before other collection
22 orders;

23 (3) Tax liens shall be satisfied after support orders, but before
24 all others; and

25 (4) orders, other than support orders, shall be satisfied in the
26 order in which they were served on the employer.

27 b. If a judgment debtor is subject to more than one collection
28 order against earnings other than a support order, upon application
29 by the debtor the court shall modify the amount of the later order so
30 that the amount to be collected at any time on both orders other than
31 support orders is not greater than 10% of gross earnings.

32 c. For purposes of N.J.S.2A:17B-14, N.J.S.2A:17B:-15 and this
33 section:

34 (1) a collection order against the earnings of a judgment debtor
35 includes any court order that requires that payments be made from
36 the earnings of the judgment debtor whether the payments are to be
37 made by the employer or by the judgment debtor;

38 (2) a support order is any order for the support of a child, spouse
39 or former spouse or any order based on a claim for unpaid support
40 for a child, spouse or former spouse.

41 (Source: 2A:17-52)

42 2A:17B-17. Payments under collection orders against earnings.

43 a. Any employer to whom a collection order against earnings is
44 presented shall deduct from earnings owed the judgment debtor the
45 amount prescribed in the order and pay the amount prescribed to the
46 collection officer presenting the order. The employer may deduct a
47 fee of no more than 5% to \$5.00, whichever is less, from each
48 payment, to compensate the employer for expenses. The judgment

1 debtor shall bear the expense of the fee.

2 b. Any employer who fails to make payments required by a
3 collection order against earnings shall be liable to the judgment
4 creditor for the payments.

5 (Source: 2A:17-53; 2A:17-56)

6 2A:17B-18. Collection order; lien on personal property.

7 a. A judgment creditor who files a collection order with a
8 collection officer shall have a lien on any property of the debtor
9 levied against by that officer from the time of levy.

10 b. A judgment creditor who has caused a levy to be made
11 against the proceeds of the collection or sale of debtor's property
12 levied against for another creditor shall have a lien on that property
13 from the time of levy on the proceeds.

14 c. If more than one lien established by this section is applicable
15 to an item of property, priority among the liens shall be governed
16 by the same rules as those governing distribution of the proceeds of
17 property which has been levied against to enforce a judgment.

18 d. A lien established by this section shall prevail over any
19 subsequent transfer of an interest in the property.

20 (Source: 2A:17-10)

21 2A:17B-19. Sale or other disposition of property.

22 a. Cash shall be collected and applied to the satisfaction of the
23 judgment as so much money collected, unless it has a value
24 exceeding its face value, in which case it shall be sold.

25 b. The following property of a judgment debtor shall be
26 collected and reduced to cash and applied to the satisfaction of the
27 judgment in accordance with the instructions of the judgment
28 creditor:

29 (1) instruments payable within the term of the collection order;

30 (2) any other rights to the payment of money.

31 c. Other property of a judgment debtor that has been levied
32 against pursuant to a collection order shall be sold as provided in
33 this chapter and proceeds applied to the payment of the judgment.

34 (Source: 2A:17-15; 2A:17-16; 2A:17-17; 2A:17-19; 2A:17-61)

35 2A:17B-20. Property sold, manner.

36 a. Property that has been levied against may be sold by any
37 method specified in a court order or agreed upon by the judgment
38 creditor, the judgment debtor and any other party having an interest
39 in the property.

40 b. In the absence of an order or agreement, that property shall be
41 sold as follows:

42 (1) Personal property that has a readily ascertainable current
43 value and that is normally sold in an established public market shall
44 be sold in that market.

45 (2) All other property shall be sold by auction, pursuant to
46 provisions governing public sales.

47 (Source: New)

48 2A:17B-21. Objections to sale or disposition of property.

1 a. Any person who claims an interest in property which has been
2 levied against or who objects to the sale or other disposition of
3 property which has been levied against may file a written objection
4 to the sale or disposition with the clerk of the court which issued the
5 collection order and deliver a copy of the objection to the collection
6 officer.

7 b. The clerk shall notify the collection officer, the judgment
8 creditor, and the attorney for the judgment creditor of any
9 objections that have been received to the sale or other disposition.
10 Upon receipt of notification of the objections, the collection officer
11 shall not sell or dispose of the property until further order of the
12 court.

13 (Source: 2A:17-29; 2A:17-31)

14 2A:17B-22. Priorities in distribution of proceeds.

15 The proceeds of property which has been levied against to collect
16 a judgment shall be distributed in the following order:

17 a. to the judgment creditor for whom the property was levied
18 against and sold;

19 b. if the sale is of personal property, to other judgment creditors
20 who have levied against the proceeds of the sale;

21 c. to junior lienholders whose liens are extinguished by the sale;

22 d. to the debtor.

23 (Source: New)

24 2A:17B-23. Disputes over distribution of proceeds.

25 If a dispute arises concerning the application of either money
26 collected or proceeds of a sale to the satisfaction of a judgment, the
27 officer or any party with a right to the property to be distributed
28 may apply to the court, on notice to the other parties whose
29 property rights will be affected by resolution of the dispute, for an
30 order directing the distribution of the money or proceeds.

31 (Source: 2A:17-6)

32 2A:17B-24. Return of collection order.

33 a. The collection officer shall file a return with the court which
34 issued the collection order at the earliest of the following times:

35 (1) 30 days after notice to the judgment creditor if no written
36 instructions have been received from the judgment creditor.

37 (2) 30 days after notice to the judgment creditor unless directed
38 otherwise.

39 (3) immediately after a request in writing for a return by the
40 judgment creditor.

41 (4) 12 months after the date of the issuance of the collection
42 order against property.

43 (5) immediately after a collection order is satisfied.

44 b. The return filed by the levying officer shall include:

45 (1) A statement of the amount collected, if any, and the time
46 when it was collected and remitted to the judgment creditor; and

47 (2) An itemized bill of costs and fees.

48 (Source: 2A:17-9; 2A:18-27)

1 3. The following are repealed:

2 N.J.S.2A:17-1 to N.J.S.2A:17-64, inclusive;

3 Laws of 1981, c.203, ss.3 and 4 (C.2A:17-56.1a and C.2A:17-
4 56.6).

5
6 4. This act shall take effect on the 60th day following
7 enactment.

8
9
10 **STATEMENT**

11
12 This bill would implement the recommendations contained in a
13 report by the New Jersey Law Revision Commission in 2000 with
14 regard to the following procedures in civil actions: judgments and
15 collection of judgments. The implementation of these
16 recommendations would be accomplished through the repeal of the
17 current Title 2A statutes in these areas and the enactment of an
18 additional two new chapters to Title 2A. The following is an
19 outline of the bill's provisions.

20 The current 32 sections concerning judgments include many
21 which are outdated, unclear and superseded in practice by newer,
22 more detailed rules. Moreover, even taken together the statutes and
23 rules do not reflect the totality of current practice. As stated in the
24 Commission's report: "The current law does not give proper
25 guidance or assistance to a party trying to collect a judgment."

26 The Commission proposal in new chapter 17A states the
27 processes by which a judgment or order is recorded and the process
28 by which information concerning subsequent events that affect the
29 judgment are added to the record. First, a copy of the whole text of
30 the judgment or order is kept by the court. See section 1. That
31 assures that the detail of a judgment or order will always be
32 available. Entry is made in the case docket each time a judgment or
33 order is entered. See section 2. The docket entry serves as notice
34 to all parties of the existence of the judgment or order and makes
35 the decree effective against them. A judgment or order that is for a
36 sum of money or that affects title to real estate is recorded on the
37 judgement docket. See section 3. That docket provides notice to
38 all persons and makes a judgment a lien against real property. See
39 sections 7 and 8. Documents constituting the subsequent history of
40 a judgment such as executions or assignments are also indicated on
41 the docket with the judgment. See sections 5 and 6.

42 With regard to collection of judgments, the current law includes
43 many sections that are outdated, unclear or superseded in practice
44 by newer more detailed rules. As a whole, the present statutes fail
45 to reflect current practice. The proposed law in new chapter 17B is
46 a comprehensive statement of the law relating to collection of
47 judgments.

48 In addition to clarifications brought about by revisions in

1 terminology, the bill proposes two substantive changes. Foremost
2 among these changes is the abandonment of the current requirement
3 that personal property be executed on before real property. This
4 personal property priority has little foundation in today's society.
5 Moreover, the requirement that personal property be exhausted
6 before collection against real property makes it difficult, if not
7 impossible, to insure the title to real property acquired through a
8 public sale.

9 Second, the bill proposes that the collection procedure be driven
10 by written collection instructions from the judgment creditor to the
11 collection officer. This innovation conforms the statutes to recent
12 case law and practice. The Commission's proposal establishes the
13 guidelines for determining priorities among claimants and the time
14 when the collection order must be returned.

15 This bill does not address the matters of *lis pendens* and public
16 sales which were addressed in the same Commission report but
17 leaves those issues for resolution in separate legislation if the need
18 for change is indicated. The sponsor has been made aware of the
19 need for revision with regard to the statutes governing judgments.