

#D-300

8/5/80

Memorandum 80-56

Subject: Study D-300 - Enforcement of Judgments (Definitions)

Attached to this memorandum are the definitions for the comprehensive statute. As the staff prepares the remainder of the comprehensive statute for printing we will review the definitions carefully. Some of the defined terms are only used in a few sections and it may be more useful to incorporate the substance of those definitions in the sections in which they are used. Other definitions may require refinement for the variety of sections in which they are used.

Respectfully submitted,

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Assistant Executive Secretary

Code of Civil Procedure §§ 680.010-724.260 (added). Enforcement of judgments

SEC. _____. Title 9 (commencing with Section 680.010) is added to Part 2 of the Code of Civil Procedure, to read:

TITLE 9. ENFORCEMENT OF JUDGMENTS

DIVISION 1. DEFINITIONS AND GENERAL PROVISIONS

CHAPTER 1. SHORT TITLE AND DEFINITIONS

§ 680.010. Short title

680.010. This title shall be known and may be cited as the Enforcement of Judgments Law.

Comment. Section 680.010 is new and provides a convenient means of referring to this title.

10/358

§ 680.110. Application of definitions

680.110. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this title.

Comment. Section 680.110 is a standard provision found in the definitional portion of several California codes and laws. E.g., Code Civ. Proc. §§ 481.010, 1235.110; Evid. Code § 100; Veh. Code § 100.

405/886

§ 680.120. Account debtor

680.120. "Account debtor" means "account debtor" as defined in Section 9105 of the Commercial Code.

Comment. Section 680.120 is new.

Note. The term is used in the following provisions:

§ 700.100. Levy on chattel paper

§ 700.170. Levy on accounts receivable and general intangibles

§ 701.050. Duty of account debtor

405/887

§ 680.130. Account receivable

680.130. "Account receivable" means "account" as defined in Section 9106 of the Commercial Code.

Comment. Section 680.130 incorporates the Commercial Code definition of "account." The term "account receivable" is used in this title because it is more descriptive than "account" and because it avoids confusion with the term "deposit account." See Section 680.210 ("deposit account" defined).

Note. The term is used in the following provisions:

§ 700.170. Levy on accounts receivable

§ 701.050. Duty of account debtor

§ 701.520. Collection; sale of collectable accounts

405/924

§ 680.140. Bailee

680.140. "Bailee" means "bailee" as defined in Section 7102 of the Commercial Code.

Comment. Section 680.140 is new.

Note. The term is used in the following provisions:

§ 700.040. Goods and money in possession of third person

§ 700.060. Bailed goods not covered by negotiable document
of title

3713

§ 680.150. Bona fide purchaser

680.150. "Bona fide purchaser" means "bona fide purchaser" as defined in Section 8302 of the Commercial Code.

Comment. Section 680.150 is new.

Note. The term is used in the following provisions:

3714

§ 680.160. Buyer in ordinary course of business

680.160. "Buyer in ordinary course of business" means "buyer in ordinary course of business" as defined in Section 1201 of the Commercial Code.

Comment. Section 680.160 is new.

Note. The term is used in the following provisions:

405/888

§ 680.170. Certificated security

680.170. "Certificated security" means "certificated security" as defined in Section 8102 of the Commercial Code.

§ 680.180

Comment. Section 680.170 is new.

Note. This provision is drafted on the assumption of appropriate amendments to Commercial Code Section 8102. The term is used in the following provisions:

§ 700.110. Levy on instruments

405/892

§ 680.180. Chattel paper

680.180. "Chattel paper" means "chattel paper" as defined in Section 9105 of the Commercial Code.

Comment. Section 680.180 is new.

Note. The term is used in the following provisions:

§ 680.290. Goods defined

§ 700.100. Levy on chattel paper

§ 701.050. Duty of account debtor

§ 701.520. Collection; sale of collectable property

31502

§ 680.190. Costs

680.190. "Costs" means costs and disbursements, including but not limited to statutory fees, charges, commissions, and expenses.

Comment. Section 680.190 defines costs to include all costs of collection. The section is not intended to expand or limit the amounts or items that are recoverable as costs. As used in this title, the term may in some cases be limited, such as in Section 702.620 (costs of levying officer).

31520

§ 680.200. Court

680.200. "Court" means the court where the judgment sought to be enforced was entered.

Comment. Section 680.200, which defines "court" to mean the court where the judgment was entered, may in some cases be inapplicable. See, e.g., Sections 688.020 (enforcement of state tax liability), 704.750 (court in county where dwelling is located), 708.160 (court of similar jurisdiction in another county). See also Section 680.110 (application of definitions).

405/893

§ 680.210. Deposit account

680.210. "Deposit account" means "deposit account" as defined in Section 9105 of the Commercial Code.

§ 680.220

Comment. Section 680.210 is new.

Note. The term is used in the following provisions:

§ 700.140. Levy on deposit accounts

§ 700.160. Deposit accounts not exclusively in name of judgment debtor

§ 703.080. Tracing exempt funds

§ 704.070. Deposit account exemption

§ 704.080. Deposit account in which social security payments are directly deposited

405/894

§ 680.220. Document of title

680.220. "Document of title" means "document" as defined in Section 9105 of the Commercial Code. A document of title is negotiable if it is negotiable within the meaning of Section 7104 of the Commercial Code.

Comment. Section 680.220 is new.

Note. The term is used in the following provisions:

§ 680.290. Goods defined

§ 700.040. Goods and money in possession of third person

§ 700.060. Bailed goods not covered by negotiable document of title

§ 700.120. Levy on negotiable document of title

3715

§ 680.230. Duly negotiated

680.230. "Duly negotiated" means "duly negotiated" as defined in Section 7501 of the Commercial Code.

Comment. Section 680.230 is new.

Note. The term is used in the following provisions:

405/895

§ 680.240. Equipment

680.240. "Equipment" means goods that are used or bought for use primarily in business (including farming or a profession) or by a judgment debtor who is a nonprofit corporation if the goods are not included in the definitions of inventory or farm products.

Comment. Section 680.240 is new. It is based on Commercial Code Section 9109(2) but refers to the judgment debtor (see Section 680.350)

rather than the debtor and omits the reference in Commercial Code Section 9109(2) to a governmental subdivision or agency.

Note. The term is used in the following provisions:

§ 680.250. Farm products defined

§ 680.320. Inventory defined

§ 700.070. Equipment and inventory of going business

CROSS-REFERENCES

Defined terms

Farm products § 680.250

Goods § 680.290

Inventory § 680.320

Judgment debtor § 680.350

405/897

§ 680.250. Farm products

680.250. "Farm products" means goods that are crops or livestock or supplies used or produced in farming operations, or products of crops or livestock in their unmanufactured states (such as ginned cotton, wool-clip, maple syrup, milk, and eggs), while in the possession of a judgment debtor engaged in raising, fattening, grazing, or other farming operations. If goods are farm products, they are neither equipment nor inventory.

Comment. Section 680.250 is a new provision; it is based on Commercial Code Section 9109(3) but refers to the judgment debtor (see Section 680.350) rather than the debtor.

Note. The term is used in the following provisions:

§ 680.240. Equipment defined

CROSS-REFERENCES

Defined terms

Equipment § 680.240

Goods § 680.290

Inventory § 680.320

Judgment debtor § 680.350

27/851

§ 680.260. Financial institution

680.260. "Financial institution" means bank, savings and loan association, credit union, or like organization, and includes a corporation engaged in a safe deposit business.

Comment. Section 680.260 is new.

Note. The term is used in the following provisions:

- § 700.140. Levy on deposit accounts
- § 700.150. Levy on safe deposit boxes
- § 700.160. Deposit accounts and safe deposit boxes not exclusively
in name of judgment debtor
- § 704.070. Deposit account exemption
- § 704.080. Deposit account in which social security payments are
directly deposited

31072

§ 680.270. Financing statement

680.270. "Financing statement" means "financing statement" as described in Section 9402 of the Commercial Code.

Comment. Section 680.270 is new.

Note. The term is used in the following provisions:

405/898

§ 680.280. General intangibles

680.280. "General intangibles" means "general intangibles" as defined in Section 9106 of the Commercial Code.

Comment. Section 680.280 is new.

Note. The term is used in the following provisions:

- § 700.170. Levy on general intangibles
- § 701.050. Duty of account debtor
- § 701.520. Collection; sale of collectable property

405/921

§ 680.290. Goods

680.290. "Goods" means tangible personal property other than chattel paper, documents of title, instruments, and money.

Comment. Section 680.290 is new.

Note. The term is used in the following provisions:

- § 680.240. Equipment defined
- § 680.320. Inventory defined
- § 700.030. Goods and money in possession of judgment debtor
- § 700.040. Goods and money in possession of third person

CROSS-REFERENCES

Defined terms

\$680.300

Chattel paper § 680.180
Documents of title § 680.220
Instrument § 680.310
Money § 680.380

3716

§ 680.300. Holder in due course

680.300. "Holder in due course" means "holder in due course" as defined in Section 3302 of the Commercial Code.

Comment. Section 680.300 is new.

Note. The term is used in the following provisions:

405/899

§ 680.310. Instrument

680.310. "Instrument" means "instrument" as defined in Section 9105 of the Commercial Code.

Comment. Section 680.310 is new.

Note. The term is used in the following provisions:

§ 680.290. Goods defined
§ 700.110. Levy on instruments
§ 701.060. Duty of obligor

405/901

§ 680.320. Inventory

680.320. "Inventory" means goods that are held by a person for sale or lease or to be furnished under contracts of service, or that have been so leased or furnished, or that are raw materials, work in process, or materials used or consumed in a business. Inventory of a person is not to be classified as the person's equipment.

Comment. Section 680.320 is new; it is based on Commercial Code Section 9109(4).

Note. The term is used in the following provisions:

§ 680.240. Equipment defined
§ 680.250. Farm products defined
§ 700.070. Equipment and inventory of going business

CROSS-REFERENCES

Defined terms

Equipment § 680.240
Goods § 680.290
Person § 680.410

§ 680.330
38886

§ 680.330. Judgment

680.330. "Judgment" means a judgment, order, or decree entered in a court of this state.

Comment. Section 680.330 is new. It continues the effect of former Section 1007 (order enforceable as judgment). A judgment enforceable under this chapter must be entered in this state. See the Comment to Section 681.010. A judgment is not effectual for any purpose until entered. See Section 664. See also Section 683.010 (enforceable upon entry).

10/907

§ 680.340. Judgment creditor

680.340. "Judgment creditor" means the person in whose favor a judgment is rendered or such person's assignee or successor in interest.

Comment. "Judgment creditor," as defined by Section 680.340, includes the person in whose favor the following types of judgments are rendered: money judgments, judgments for the possession of personal property, judgments for the possession of real property, and judgments for the sale of real or personal property.

CROSS-REFERENCES

Defined terms

Judgment § 680.330
Person § 680.410

10/908

§ 680.350. Judgment debtor

680.350. "Judgment debtor" means the person against whom a judgment is rendered.

Comment. "Judgment debtor," as defined by Section 680.350, includes persons against whom the following types of judgments are rendered: money judgments, judgments for the possession of personal property, judgments for the possession of real property, and judgments for the sale of real or personal property.

CROSS-REFERENCES

Defined terms

Judgment § 680.330
Person § 680.410

§ 680.360
368/221

§ 680.360. Letter of credit

680.360. "Letter of credit" means "letter of credit" as defined in Section 5103 of the Commercial Code.

Comment. Section 680.360 is new.

Note. The term is used in the following provisions:
§ 697.740. Effect of execution lien

10/913

§ 680.370. Levying officer

680.370. "Levying officer" means the sheriff, marshal, or constable.

Comment. Section 680.370 is new. In certain situations, other persons will be authorized to perform the duties of levying officers. See, e.g., Code Civ. Proc. §§ 262.8-262.10 (elisor to perform certain duties when sheriff and coroner are parties to action), 699.080 (levy by registered process server); Gov't Code § 27469 (coroner to discharge duties of sheriff where sheriff is party to action or proceeding).

405/775

§ 680.380. Money

680.380. "Money" means "money" as defined in Section 1201 of the Commercial Code.

Comment. Section 680.380 is new. The term is used in the following provisions:

§ 680.290. Goods defined
§ 697.740. Effect of judgment lien
§ 700.030. Goods and money in possession of judgment debtor
§ 700.040. Goods and money in possession of third person

4270

§ 680.390. Money judgment

680.390. "Money judgment" means that part of a judgment that requires the payment of money.

Comment. Section 680.390 is drawn from Section 1710.10 ("sister state judgment" defined).

Note. The term is used in the following provisions:

CROSS-REFERENCES

Defined terms

Judgment § 680.330
Money § 680.380

§ 680.400
405/902

§ 680.400. Negotiable instrument

680.400. "Negotiable instrument" means "negotiable instrument" as defined in Section 3104 of the Commercial Code.

Comment. Section 680.400 is the same as Section 481.160 (attachment).

Note. The term is used in the following provisions:

10/917

§ 680.410. Person

680.410. "Person" includes an individual, a corporation, a partnership or other unincorporated association, and a public entity.

Comment. Section 680.410 is new. See also Section 708.710 ("public entity" defined for purposes of collection of money judgment where judgment debtor is creditor of public entity).

4426

§ 680.420. Personal property

680.420. "Personal property" includes both tangible and intangible personal property.

Comment. Section 680.420 is new.

4431

§ 680.430. Purchase money security interest

680.430. "Purchase money security interest" means "purchase money security interest" as defined in Section 9107 of the Commercial Code.

Comment. Section 680.____ is new.

Note. The term is used in the following provisions:

405/193

§ 680.440. Property

680.440. "Property" includes real and personal property and any interest therein.

Comment. Section 680.440 is new.

§ 680.450
405/778

§ 680.450. Real property

680.450. "Real property" includes any rights in real property, including but not limited to a leasehold interest in real property.

Comment. Section 680.450 is new. Under this title, a leasehold interest is treated as real property notwithstanding its treatment as personal property in some instances under prior law. See, e.g., Section 700.010 and Comment thereto (method of levy on real property). For some purposes, leases having unexpired terms of less than two years are treated differently from other leases. See, e.g., Sections 701.540 (notice of sale of real property) and 704.740 (homestead exemption).

Note. The term is used in the following provisions:

§ 700.010. Levy on real property

§ 700.020. Levy on growing crops and standing timber

32680

§ 680.460. Registered process server

680.460. "Registered process server" means a person registered pursuant to Chapter 16 (commencing with Section 22350) of Division 8 of the Business and Professions Code.

Comment. Section 680.460 is drawn from subdivision (b) of former Section 687. The term is used in the following provisions:

§ 699.080. Levy by registered process server

§ 699.510. Issuance of writ of execution

§ 708.170. Service of order in examination proceedings

CROSS-REFERENCES

Defined terms

Person § 680.410

404/149

§ 680.470 Secured party

680.470. "Secured party" means "secured party" as defined in Section 9105 of the Commercial Code.

Comment. Section 680.470 is new.

Note. The term is used in the following provisions:

4442

§ 680.480. Security

680.480. "Security" means "security" as defined in Section 8102 of the Commercial Code.

§ 680.490

Comment. Section 680.480 is new.

Note. The term is used in the following provisions:
§ 700.130. Levy on securities

30168

§ 680.490. Security agreement

680.490. "Security agreement" means "security agreement" as defined in Section 9105 of the Commercial Code.

Comment. Section 680.490 is new.

Note. The term is used in the following provisions:

992/939

§ 680.500. Security interest

680.500. "Security interest" means "security interest" as defined in Section 1201 of the Commercial Code.

Comment. Section 680.500 is new.

Note. The term is used in the following provisions:

67/708

§ 680.510. Writ

680.510. "Writ" includes a writ of execution, a writ of possession of personal property, a writ of possession of real property, and a writ of sale.

Comment. Section 680.510 defines "writ" for the purpose of general provisions pertaining to all writs issuable under this title. See also Section 680.110 (application of definitions).